

Municipal Clerk's Office  
**APPROVED**  
Date: 10/18/2016

Submitted by: Chair of the Assembly at the  
Request of the Mayor  
Prepared by: Dept. of Law  
For reading: October 18, 2016

**ANCHORAGE, ALASKA**  
**EO No. 2016-2**

1 **AN EMERGENCY ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY**  
2 **TO ENACT A TEMPORARY MORATORIUM ON THE ISSUANCE OF**  
3 **DEMOLITION AND OTHER PERMITS REQUIRED BY TITLE 23 OF THE**  
4 **ANCHORAGE MUNICIPAL CODE FOR PROPERTIES WITHIN THE**  
5 **MUNICIPALITY LISTED ON THE NATIONAL REGISTER OF HISTORIC**  
6 **PLACES.**  
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8  
9 **WHEREAS**, several localities across the country have adopted “demolition delay”  
10 ordinances to provide the public with adequate notice of, and opportunities to  
11 comment on, proposals to demolish or substantially alter historic properties;  
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13 **WHEREAS**, many localities have, through their zoning codes, adopted “historical  
14 overlay districts,” to preserve the historic character of particular areas;  
15

16 **WHEREAS**, ahead of adopting either a demolition-delay ordinance or a historic  
17 overlay district, other localities, in response to imminent threats to historic  
18 properties, have adopted temporary moratoria on the demolition or substantial  
19 alteration of historic properties within their boundaries before they are irreparably  
20 and irreversibly changed or destroyed to enable their legislative assemblies to  
21 consider whether to adopt such a demolition-delay ordinance or historic zoning  
22 district and, if so, how such an ordinance or district should be designed;  
23

24 **WHEREAS**, on August 25, 2016 the Anchorage Historic Preservation Commission  
25 adopted a resolution, #2016-04, to advise the Anchorage Assembly that it should  
26 “Establish a Moratorium on Demolitions of National Register of Historic Places  
27 Listed and Eligible Properties within Anchorage, Alaska”;  
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29 **WHEREAS**, the Anchorage Historic Preservation Commission noted that there is  
30 currently “no legal means for the public to provide input, and/or options to protect  
31 National Register listed properties . . . from demolition and destruction”;  
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33 **WHEREAS**, the Anchorage Historic Preservation Commission further noted that  
34 there are “over 30 National Register listed properties found in Anchorage,” which  
35 are irreplaceable and “hold an enduring and important place in the hearts and minds  
36 of the people of Anchorage”;  
37

38 **WHEREAS**, among the Register-listed properties referenced by the Commission is  
39 the historic Fourth Avenue Theatre, also known as the Lathrop Building or Lathrop’s  
40 Showhouse, which has been listed on the National Register since at least 1982 (see  
41 <http://npgallery.nps.gov/nrhp>);  
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43 **WHEREAS**, on October 17, 2016, contractors acting at the behest of the owners of

1 the historic Fourth Avenue Theatre requested a permit to demolish the Fourth  
2 Avenue Theatre;

3  
4 **WHEREAS**, the Anchorage Assembly finds that the total lack of any public process  
5 associated with the demolition of historic properties results in an insufficiency of  
6 services sufficient to endanger the public welfare; and

7  
8 **WHEREAS**, an emergency ordinance is effective for 60 days unless sooner  
9 repealed by resolution; now, therefore:

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11 **THE ANCHORAGE ASSEMBLY ORDAINS:**

12  
13 **Section 1.** Notwithstanding anything in Anchorage Municipal Code to the  
14 contrary, the Anchorage Municipal Assembly hereby adopts a temporary  
15 moratorium on permits issued under Title 23 of the Anchorage Municipal Code,  
16 including without limitation permits for demolition, alteration or moving, for properties  
17 within the Municipality currently listed on the National Register of Historic Places.  
18 For the period of this moratorium, no person shall demolish a property listed on the  
19 National Register of Historic Places, cause significant or substantial alteration to  
20 such a property's structural, historic, aesthetic or other unique features, nor engage  
21 in any other activity on such a property for which a permit issued pursuant to Title  
22 23 is required. Violations of this moratorium shall subject the violator(s) to penalties  
23 as prescribed by law, including but not limited to those in Title 23 and in AMC section  
24 1.45.010.

25  
26 **Section 2.** Notwithstanding the temporary moratorium enacted in section 1, the  
27 municipal building official may issue a permit or permits to authorize work on a  
28 property listed on the National Register of Historic Places, if, in the sole opinion of  
29 the building official, such work is necessary to redress an imminent risk to life or  
30 safety.

31  
32 **Section 3.** This emergency ordinance shall be effective immediately upon  
33 passage and approval by the Anchorage Assembly. Pursuant to Charter section  
34 10.03, it will cease to be effective 60 days from adoption, unless sooner repealed  
35 by resolution.

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37 PASSED AND APPROVED by the Anchorage Assembly this 18th day of  
38 October, 2016.

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43 ATTEST:

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Municipal Clerk

  
Chair of the Assembly

  
Municipal Clerk



# MUNICIPALITY OF ANCHORAGE

## Assembly Memorandum

No. AM 703-2016

Meeting Date: October 18, 2016

1 **From:** MAYOR  
2

3 **Subject:** AN EMERGENCY ORDINANCE OF THE ANCHORAGE MUNICIPAL  
4 ASSEMBLY TO ENACT A TEMPORARY MORATORIUM ON THE  
5 ISSUANCE OF DEMOLITION AND OTHER PERMITS REQUIRED  
6 BY TITLE 23 OF THE ANCHORAGE MUNICIPAL CODE FOR  
7 PROPERTIES WITHIN THE MUNICIPALITY LISTED ON THE  
8 NATIONAL REGISTER OF HISTORIC PLACES.  
9

10 The attached emergency ordinance enacts a temporary moratorium on  
11 building permits for properties listed on the National Register of Historic Places  
12 maintained by the National Park Service (see <http://npgallery.nps.gov/nrhp>). The  
13 Anchorage Historic Preservation Commission requested such an ordinance in  
14 August. An acute threat of demolition posed to the historic Fourth Avenue Theatre  
15 contributes to the measure's urgency.  
16

17 The temporary moratorium will give the Assembly time to engage in  
18 thoughtful deliberation as to whether, among other things, a "demolition review"  
19 process should be adopted for historic buildings. Such a process could ensure that  
20 the public will both: (a) be aware of threats posed to historic properties, and (b) be  
21 given the opportunity to present and develop alternatives to demolition.  
22

23 In support the measure, several items are appended to this memorandum:  
24

- 25 • Memorandum of the Municipal Historic Preservation Officer to  
26 Assembly Members Flynn and Weddleton (October 13, 2016),  
27 which includes as attachments:  
28
  - 29 - Anchorage Historic Preservation Commission Resolution  
30 #2016-04 (August 25, 2016)  
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  - 32 - Legal Opinion in support of AHPC Resolution 2016-04  
33 (September 14, 2016)  
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  - 35 - List of properties within the municipality currently on the  
36 National Register of Historic Places (October 2016)

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- Memorandum provided to the AHPC re: *Overview of Ordinances Specific to Demolition Delays to Allow for Impact Assessment* (August 23, 2016)
- Nomination of Fourth Avenue Theatre to National Register of Historic Places (1982)
- Photos of Fourth Avenue Theatre maintained by the National Register

**THE ADMINISTRATION RECOMMENDS APPROVAL.**

Prepared by: William D. Falsey, Municipal Attorney  
Department of Law  
Concur: Christopher M. Schutte, Director  
Office of Economic and Community Development  
Concur: Lance Wilber, Director  
Office of Management and Budget  
Concur: Robert E. Harris, CFO  
Concur: Michael K. Abbott, Municipal Manager  
Respectfully submitted: Ethan A. Berkowitz, Mayor

APPENDIX A



# Municipality of Anchorage

Planning Department  
Long-Range Planning Division





## MEMORANDUM


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**Date:** October 13, 2016

**To:** Assembly Member Patrick Flynn,  
Assembly Member John Weddleton

**Thru:**  Christopher Schutte, Executive Director, OECD

**Thru:**  Hal B. Hart, AICP, Planning Director

**Thru:**  Carol C. Wong, Long-Range Planning Manager

**From:**  Kristine Bunnell, Senior Planner, Historic Preservation Officer

**Subject:** Anchorage Historic Preservation Commission Resolution 2016-04 – Moratorium on Demolitions on National Register of Historic Places Listed and Eligible Properties

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### Anchorage Historic Preservation Commission

The Anchorage Historic Preservation Commission (Commission) is an advisory body to the Anchorage Assembly on historic preservation projects and issues. As such the Commission approved a resolution to create a two-year moratorium on the demolition (Demolition Moratorium) of National Register of Historic Places listed and eligible properties on August 25, 2016. (Attachment #1).

### Assistant Municipal Attorney Legal Opinion

Subsequent to the approval of the resolution for a Demolition Moratorium by the Commission, the Acting Director of Development Services requested a legal opinion from the Municipal Attorney's office to determine whether the Assembly can "institute a general moratorium on the issuance of demolition permits for nationally registered historic properties and properties eligible for classification in order to permit the Assembly time to consider adopting ordinances that would: (a) enact a special, pre-demolition public review process for historic properties, and/or (b) create an "overlay zoning district" that would impose requirements to preserve or protect historic properties with the district?" See attached Office of Municipal Attorney memo dated 9/14/2016 (Attachment #2).

The brief and short answer from the Municipal Attorney is "Yes." The Yes is subject to the Background and Discussion included in the Municipal Attorney's memo.

### National Register Listed Properties in the Anchorage Area

National Register Listed Properties in the Anchorage area span from the Native Village of Eklutna to Girdwood. There are 33 properties listed on the National Register. Included with this memo are a National Register of Historic Places Listings and 3 Maps for informational purposes (Attachment #3). These include buildings, mining sites, Dena'ina traditional hunting or fishing grounds, an airplane, and historic districts.

Private Properties

Of these 33 National Register listings, 16 of the listings are privately owned and listed below. Many listed properties have functioning viable businesses with several that provide housing or lodging. The Atwood Center on APU, a historic district on Government Hill—comprised of several private homes, a church, and 2 mines are also listed. The private properties are as follows, and are marked in green on Attachment #3:

**Downtown Anchorage:**

- \* AEC Cottage 23 – 618 Christensen Drive
- \* Anchorage Hotel Annex – 330 E Street
- \* Sam Bieri House – 136 W. 7<sup>th</sup> Avenue
- \* David Leopold House – 605 W. 2<sup>nd</sup> Avenue
- \* Fourth Avenue Theatre – 630 W. 4<sup>th</sup> Avenue
- \* Kimball's Store – 500 and 504 W. 5<sup>th</sup> Avenue
- \* McKinley Tower / McKay Building – 337 E. 4<sup>th</sup> Avenue
- \* Wendler Building – 410 I Street

**South Addition:**

- \* Oscar Gill House – 1344 W. 10<sup>th</sup> Avenue
- \* KENI Radio Building – 1777 Forest Park Drive

**Alaska Pacific University Campus:**

- \* Atwood Campus Center – Alaska Pacific University

**Seward Highway:**

- \* Crow Creek Mining Company – Off Seward Highway at Crow Creek
- \* Indian Valley Mine – Off Seward Highway in Indian
- \* Mt. Alyeska Roundhouse – Alyeska Ski Resort, Girdwood

**Eklutna:**

- \* Mike Alex Cabin – Native Village of Eklutna
- \* Old St. Nicholas Russian Orthodox Church – Native Village of Eklutna

**Glen Highway:**

- \* Spring Creek Lodge – 18939 Old Glen Highway, Chugiak

**Government Hill:**

- \* Government Hill Federal Housing Historic District, Government Hill

### Public Properties

The 17 remaining National Register listings are in Federal, State or Municipal ownership. These properties provide essential and important functions to the Anchorage community. This includes a museum (Oscar Anderson House Museum), rental housing (Civil Works Residential Housing - Brown's Point Cottages), visitor centers, community centers, and cultural landscapes (Anchorage Cemetery and Beluga Point). The publically-owned properties are noted with red on Attachment #3.

### Need for the Moratorium

The Anchorage community has expressed its support for these historic and cultural sites most recently through social media, and in historic preservation planning. Many of the properties noted above were identified as "Landmarks to Save" during the completion of the *Original Neighborhoods Historic Preservation Plan*, adopted by the Assembly in February 2013.

The *Original Neighborhoods Historic Preservation Plan* recommends the development and adoption of a Demolition Stay Ordinance. A Demolition Stay Ordinance (Stay) specific to historic properties would give the public an opportunity to weigh in on the demolition of any National Register listed properties. The Stay could give the community time to work with the owner to potentially avoid a demolition. Our community has expressed their concern and desire to develop workable solutions in an effort to save and restore the few historic and cultural properties that we have.

The Commission recently contracted with a recognized expert in culture resource and heritage management to assist in the development of a Stay. Mr. Al Dobbins, with his experience as a Planning Director and Community Development Chief, will guide the Commission and the Municipal legal team as they craft a Stay ordinance that works best for Anchorage.

The Demolition Moratorium will give the Commission the time needed to complete this process. The attached white paper, *Overview of Ordinances Specific to Demolition Delays to Allow for Impact Assessment – August 23, 2016 (Attachment #4)* briefly details constitutional, due process, equal protection, and best practices for developing a Demolition Stay.

Therefore, the Demolition Moratorium Resolution 2016-04 is proposed by the Anchorage Historic Preservation Commission in order to give our community time to craft and adopt a Demolition Ordinance. The details of a Demolition Ordinance would be discussed at length to ensure that the Assembly, the Planning & Zoning Commission, and the community agrees with, and understand the parameters of such an ordinance.

It is not the intent of the Anchorage Historic Preservation Commission to impose undue hardship on property owners. National Register listed properties contribute to our economy and culture by their very existence. Heritage tourism is growing world-wide. Saving and to some extent restoring our historic fabric, especially in our Downtown area, can assist Anchorage in further diversifying our economy, while providing a diverse array of commercial and residential options.

**Recommendation**

**It is therefore respectfully requested that the Anchorage Assembly consider the approval of a Demolition Moratorium specifically for the National Register Listed Properties identified in Attachment #3.**

**It is also requested that the Assembly direct staff to finalize a listing of National Register "Eligible" Properties for consideration and inclusion in the Demolition Moratorium within the next 60 days.**

**ATTACHMENTS:**

1. Anchorage Historic Preservation Commission Resolution 2016-04: A Resolution to the Anchorage Assembly to Establish a Moratorium on Demolitions of National Register of Historic Places Listed and Eligible Properties within Anchorage, Alaska.
2. Office of Municipal Attorney memo dated 9/14/2016.
3. National Register Listed Properties and Maps.
4. *Overview of Ordinances Specific to Demolition Delays to Allow for Impact Assessment – August 23, 2016.*

**Anchorage Historic Preservation Commission Resolution 2016-04**  
**A Resolution to the Anchorage Assembly to Establish a Moratorium on Demolitions of**  
**National Register of Historic Places Listed and Eligible Properties within Anchorage, Alaska**

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*WHEREAS*, the Anchorage Historic Preservation Commission (AHPC) is committed to historic preservation and recognition of our unique Alaska culture, and heritage through its establishment, and by the unique qualifications and standing of its members by the Anchorage Assembly in 2007; and

*WHEREAS*, the AHPC is tasked to support and recommend approval of historic preservation projects to preserve important cultural sites, properties, and landmarks that contribute to, and tell the unique story of Anchorage's history and culture; and

*WHEREAS*, the National Park Service created the National Register of Historic Places (National Register) as the official list of the Nation's historic places worthy of preservation. The National Register was authorized under the National Historic Preservation Act of 1966. The National Register is part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect our historic and archeological resources; and

*WHEREAS*, Anchorage's National Register listed properties receive recognition by this listing for their significance in: American history, distinct architectural characteristics, artistic values or work of a master, archeology, engineering, historic and prehistoric cultural contributions; and

*WHEREAS*, the process to list a property or site on the National Register involves property owners, the State Historic Preservation Office, and local historic preservation commissions, and local government entities; and

*WHEREAS*, the Municipality of Anchorage is home to over 30 irreplaceable National Register properties and 4 Historic Districts. These include the 4<sup>th</sup> Avenue Theatre, Pioneer Schoolhouse, Oscar Anderson House, Anchorage Cemetery, Beluga Point, and Government Hill Federal Housing Historic District. These sites are listed for the significant contribution that these special places relay in telling the story of our history and culture from prehistory through the early years of Anchorage's settlement (Attachment #1-NPS National Register Listings); and

*WHEREAS*, the National Register properties throughout Anchorage hold an enduring and important place in the hearts and minds of the people of Anchorage, who identified many of these properties as "Landmarks to Save" in the *Anchorage Original Neighborhoods Historic Preservation Plan-2013 (4NHPP)*, and "Anchorage's greatest historic landmarks" in the *Anchorage Downtown Comprehensive Plan-2007 (Attachment #2-NHPP pages 159, 149, 151, 158)*; and

*WHEREAS*, in addition to the over 30 National Register listed properties found in Anchorage, several properties are also determined "Eligible" for listing on the National Register of Historic Places. These Eligible properties have not been formally nominated to the National Register. This includes several office buildings, and single family and duplex homes in Downtown, South Addition, Fairview, and Government Hill; and

*WHEREAS*, currently there is no legal means for the public to provide input, and or options to protect National Register listed properties or properties determined Eligible from demolition and destruction by and through an established public process, wherein public comment could be taken by the Planning and Zoning Commission, and the Assembly; and

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*WHEREAS*, in a young community such as Anchorage, the public should be allowed to weigh in and comment on the potential loss of the few unique National Register listed properties that are still standing due to their cultural and historical significance to our community; and

*WHEREAS*, the Municipality may establish a public process to take public input through the adoption of a historic preservation and/or demolition review ordinance that would regulate changes to historic resources that would irreparably change or destroy their significant historic character; and

*WHEREAS*, the Anchorage *Original Neighborhoods Historic Preservation Plan – 2013* supports the codification of a demolition review ordinance in Action Item # 7.2.3 (page 149 and 159), and the establishment of overlay zoning areas (pages 151 and 158), which could be two separate options to protect our significant National Register listed properties from demolition or significant changes to their historic characters by renovations or reconstruction; and

*WHEREAS*, the AHPC is in the process of researching and developing recommendations for a demolition review ordinance, and a historic overlay district ordinance as an element of a Municipal-wide Historic Preservation Plan initiated in July 2016, including completion of research and recommendations formulated in the *Overview of Ordinances Specific to Demolition Delays to Allow for Impact Assessment* included as Attachment #3; and

*WHEREAS*, the Anchorage Assembly has the ability to issue a moratorium on the issuance of permits for; 1) demolition, 2) renovation, or 3) reconstruction of National Register listed properties. A permit moratorium specific to National Register listed properties would give the community adequate time to develop a demolition review ordinance, and a historic overlay district ordinance in order to assist the community in potentially preventing the loss of what few National Register listed properties that we have.

*NOW, THEREFORE, BE IT RESOLVED* that the Anchorage Historic Preservation Commission makes the following recommendations regarding the protection of Anchorage's properties listed in the National Register of Historic Places:

1. Assembly adoption of a Historic Preservation Moratorium Ordinance on all National Register of Historic Places listed properties in the Anchorage area to ensure that there will be no demolition, significant renovation, or reconstruction permits issued by the Municipality for the following purposes and actions:
  - a. Permits will not be issued on National Register listed properties identified on Attachment #1, for 18 months. The exception to this would be for a permit to repair a building due to an emergency event including fire, earthquake, or other natural disaster, or preventative maintenance as determined by the Municipal Building Official.
  - b. Permits will not be issued on properties determined "Eligible" for listing in the National Register for 24 months. "Eligible" properties are identified in the *Anchorage Historic Preservation Plan Consolidated Inventory Survey Report-August 1, 2012*, or on the Alaska Heritage Resources Survey database maintained by the State Historic Preservation Office located in Anchorage, AK.

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2. Direct the AHPC to complete the research and public input process to draft a demolition review ordinance and historic district overlay ordinance, with Municipal attorneys, for public hearing and recommendation by the Anchorage Planning and Zoning Commission, and public hearing and adoption by the Anchorage Assembly within the next 12 months.

PASSED AND APPROVED on the 25 of August, 2016

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*Carol Wang for Hal H. Hart*      *Debra Corbett*  
Hal H. Hart, AICP, Commission Secretary      Debra Corbett, Commission Chair

### ATTACHMENTS

1. Maps and List of National Register Listings for Anchorage, Alaska.
2. 4NHPP- Pages 159, 149, 151, 158.
3. *Overview of Ordinances Specific to Demolition Delays to Allow for Impact Assessment* – Completed expressly for informational background material to this resolution for the Anchorage Historic Preservation Commission by Albert Dobbins III, AICP.



MUNICIPALITY OF ANCHORAGE  
OFFICE OF THE MUNICIPAL ATTORNEY

MEMORANDUM

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DATE: September 14, 2016

TO: Kent Kohlhasse, Acting Director of Development Services

THRU: William D. Falsey, Municipal Attorney *WDF*

FROM: Quincy Arms, Assistant Municipal Attorney *QA*

SUBJECT: Using Temporary Demolition Moratorium to Protect Historic Properties

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**QUESTION:** Can the Assembly institute a general moratorium on the issuance of demolition permits for nationally registered historic properties and properties eligible for classification, in order to permit the Assembly time to consider adopting ordinances that would: (a) enact a special, pre-demolition public-review process for historic properties, and/or (b) create an "overlay zoning district" that would impose requirements to preserve or protect historic properties within the district?

**SHORT ANSWER:** Subject to the following Background and Discussion, our Brief Answer is: Yes.

**BACKGROUND:** The Anchorage Historic Preservation Commission ("AHPC") drafted a resolution recommending that the Anchorage Assembly adopt a moratorium on the issuance of demolition and renovation permits for properties listed or currently eligible for listing on the National Register of Historic Places.<sup>1</sup> The recommendation is for an 18-month moratorium for certain properties currently on the National Register and 24-months for other properties eligible for listing. The AHPC recommends that the Assembly impose the moratorium while the AHPC works with municipal staff to draft a "demolition review ordinance" and an historic district overlay ordinance for Assembly adoption within the next year.

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<sup>1</sup> See Anchorage Historic Preservation Commission Resolution 2016-04, attached.

**DISCUSSION:** A temporary moratorium on the issuance of land use permits may be imposed in order to allow a local government reasonable time to study and make considered decisions regarding the need to adopt or amend comprehensive land use plans, zoning ordinances, or other land-use regulations.<sup>2</sup> The most common legal challenge to land use moratoria is a claim that the moratorium amounts to a "taking." A taking is a violation of the Fifth Amendment to the United States Constitution and/or the Alaska Constitution which provide that the government cannot take private property without providing just compensation.<sup>3</sup> The United States Supreme Court has expanded this protection to also prohibit government regulation which so significantly burdens a property that it effectively deprives the owner of economic use of the property.<sup>4</sup> Numerous regulatory takings cases have been brought but few have been successful in striking down the land use moratoria imposed.<sup>5</sup>

#### **Authority to Enact Moratorium**

The first issue in deciding whether a moratorium is legally defensible is whether the municipality has the authority to enact a moratorium. In about a dozen states, land use moratoria are permitted by state statute.<sup>6</sup> In some other states without legislation, courts have upheld these moratoria as a valid act of the municipality's police power.<sup>7</sup>

The Alaska State Statutes do not specifically allow (or prohibit) land use moratoria or proscribe any limits or procedures for implementing them. We also did not find any Alaska case law specifically addressing land use moratoria. However, Alaska Statutes do provide that municipalities have the right to enact land use and zoning ordinances.<sup>8</sup>

In the absence of express statutory authority, the prevailing view is that land use moratoria are generally permissible pursuant to the municipality's general police powers

<sup>2</sup> 4 Am. Law Zoning 35:1.

<sup>3</sup> U.S. Const. amend. V; Alaska Const. Art. 1, § 18.

<sup>4</sup> *Pennsylvania Coal v. Mahon*, 260 U.S. 393 (1922).

<sup>5</sup> 32 Am Jur Proof of Facts 3d 485.

<sup>6</sup> 4 Am. Law Zoning 35:4 (The states include California, Colorado, Minnesota, and Oregon.)

<sup>7</sup> 4 Am. Law Zoning 35:4; see e.g. *Hasco Elec. Corp. v. Dassler*, 143 N.Y.S.2d 240, 242 (N.Y. App. Div. 1955): "The court is inclined to the opinion that the local legislative body was vested with the authority to enact reasonable stop-gap or interim legislation prohibiting the commencement of construction for a reasonable time during consideration of proposed zoning changes."

<sup>8</sup> AS 29.40.040

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so long as they act in good faith, the moratorium is for a short period, and it serves a valid public purpose.<sup>9</sup>

### Reasonable Period of Time

Although the length of moratoria in some states will be limited by statute, in other states the courts generally apply a reasonableness standard to the duration of a moratorium.<sup>10</sup> In the United States Supreme Court Case, *Tahoe-Sierra Pres. Council v. Tahoe Regional Planning Agency*, the Court commented “any moratorium that lasts for more than one year should be viewed with special skepticism.”<sup>11</sup> However, the Court went on to hold that the 32 month moratorium on building around Lake Tahoe was reasonable given the breadth and importance of the planning agency's efforts to create a water quality plan.<sup>12</sup> The duration of the moratorium must be closely tied to the municipal action which is necessary to address the zoning issue.<sup>13</sup>

In a Minnesota Appeals Court case, the court upheld a moratorium on development in agricultural areas for 6 months which was instated while the town was developing a new zoning district for agricultural preservation.<sup>14</sup> Minnesota state law authorizes land use moratorium for *counties* in Minnesota so the court could not rely directly on state law for its finding regarding the *town's* ordinance. So while the court found the statute persuasive, it also looked to case law from other jurisdictions to hold that as long as the town acted in good faith and the moratorium was only for a limited duration, the moratorium was a valid exercise of the town's police power.<sup>15</sup>

The Texas Appeals Court considered a moratorium on demolition and alteration permits for historic properties. In Dallas, when an applicant seeks to have a property considered “historic,” the city issues a moratorium on demolition and alteration permits for the

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<sup>9</sup> Matthew G. St. Amand & Dwight H. Merriam, *Defensible Moratoria: The Law Before and After the Tahoe-Sierra Decision*, 43 Nat. Resources J. 703, 710 (2003) (citing *Metro Realty v. El Dorado County*, 35 Cal.Rptr. 480 (Cal. Dist. Ct. App. 1963); *Almquist v. Town of Marshan*, 245 N.W.2d 819 (Minn. 1976).)

<sup>10</sup> 4 Am. Law Zoning 35:2.

<sup>11</sup> 535 U.S. 302, 341 (2002).

<sup>12</sup> *Id.* 535 U.S. 302, 341-342 (2002).

<sup>13</sup> James A. Coon, *Land Use Moratoria*. New York State Department of State, Local Government Technical Series; see also *East Cape May Associates v. State, New Jersey Dept. of Environmental Protection*, 693 A.2d 114, 122 (N.J. Super. Ct. App. Div. 1997) (temporary taking may be found where duration of wetlands permitting process is disproportionate to the complexity of the regulatory scheme).

<sup>14</sup> *Almquist v. Town of Marshan*, 245 N.W.2d 819 (Minn. 1976).

<sup>15</sup> *Id.* 245 N.W.2d at 827.

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property while the application is being considered.<sup>16</sup> In the *2218 Bryan St.* case, the moratorium was in place for 5 years while the city considered the inclusion of a historic schoolhouse as a historic district. The owner challenged the moratorium, arguing that the property was much more valuable as vacant land. The court found that no taking occurred as the regulation did not significantly impact the property owner's reasonable economic expectations for the property. Evidence at the trial revealed that a portion of the property was used as a parking lot, generating income every month, and that the schoolhouse, after renovations, was capable of generating income as well.<sup>17</sup>

In a Massachusetts Appellate Court case, the court found that a 23-month moratorium on building permits was reasonable because the municipality was actively engaged in conducting a study to update the comprehensive plan.<sup>18</sup>

In another case, the Texas Supreme Court considered a 15-month moratorium on accepting plats to allow time for the city to determine whether the existing zoning was consistent with the comprehensive plan.<sup>19</sup> In this particular case, the court disapproved of the city's conduct towards the landowner. The city was considering the moratorium before the purchase, but waited until immediately after the landowner closed on the property to impose the moratorium. Even so, the court held that the city's actions did not rise to the level of a taking, and that a 15-month moratorium was reasonable considering the efforts needed to resolve the differences between the City Council, the Planning and Zoning Commission, and the City's consultant.

Finally, in another case, a Maryland appellate court upheld a blanket moratorium on zoning actions while the county revised its comprehensive plan.<sup>20</sup> The moratorium was set to expire after six months, or earlier upon the adoption of the revised comprehensive plan. Making the expiration flexible depending upon the timeline of adoption of a new zoning ordinance is one strategy for ensuring that the moratorium is for a reasonable length of time.

### Valid Public Purpose

Land-use moratoria may violate property owners' due process rights if they are not related to a valid public purpose such as protecting the public health, safety, or welfare.<sup>21</sup>

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<sup>16</sup> *2218 Bryan St., Ltd. v. City of Dallas*, 175 S.W.3d 58 (Tex. App. 2005).

<sup>17</sup> *Id.* at 65-67.

<sup>18</sup> *W.R. Grace & Co.-Conn. v. Cambridge City Council*, 779 N.E.2d 141, 150 (Mass. App. Ct. 2002).

<sup>19</sup> *Sheffield Dev. Co. v. City of Glenn Heights*, 140 S.W.3d 660, 679-80 (Tex. 2004).

<sup>20</sup> *S.E.W. Friel v. Triangle Oil Co.*, 543 A.2d 863, 864-65 (Md. App. 1988).

<sup>21</sup> 4 Am. Law. Zoning § 35:3 (5th ed.).

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One common legitimate public purpose which has been approved by the courts is the need to prepare or amend a comprehensive plan or zoning ordinance.<sup>22</sup>

For example, in *A. Copeland Enterprises, Inc.*, the court upheld a moratorium on the issuance of fast-food permits within a specific zoning district while the city drafted an ordinance regarding historic preservation.<sup>23</sup> The Supreme Court of Tennessee, likewise, approved an interim moratorium on hazardous waste permits pending review of a city zoning ordinance which would require additional review and permitting for waste processing sites.<sup>24</sup> In another related case, an appellate court in New Jersey upheld an 18-month moratorium on land development while the municipality considered its options for providing low and moderate income housing.<sup>25</sup>

While regulation of zoning has been approved as a valid public purpose, a Municipality's desire to acquire property may not qualify as a valid public purpose.<sup>26</sup> In the *Oakwood Island Yacht Club* case, the City of New Rochelle adopted a six-month moratorium on development on an island within the city limits while the city considered purchasing the island. The New York Court of Appeals struck down the moratorium, recognizing that while the courts generally allow municipalities to enact such ordinances while they consider comprehensive zoning ordinances, there are no cases upholding a moratorium ordinance because a municipality at some future time may want to purchase the property.<sup>27</sup>

In another New York case, the court found the village of Tarrytown's blanket moratorium on cell towers was not a valid exercise of village's police or zoning powers because it was

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<sup>22</sup> *Id.*

<sup>23</sup> *A. Copeland Enterprises, Inc. v. City of New Orleans*, 372 So.2d 764 (La. Ct. App. 2001).

<sup>24</sup> *State ex rel. SCA Chemical Waste Services, Inc. v. Konigsberg*, 636 S.W.2d 430 (Tenn. 1982).

<sup>25</sup> *Tocco v. New Jersey Council on Affordable Hous.*, 576 A.2d 328 (N.J. Super. Ct. App. Div. 1990).

<sup>26</sup> *Oakwood Island Yacht Club v. City of New Rochelle*, 36 A.D.2d 796 (N.Y. Sup. Ct. 1969) (affirmed *Oakwood Island Yacht Club v. City of New Rochelle*, 36 A.D.2d 796 (N.Y. App. Div. 1971) Cf. *Davis v. City of Bandon*, 805 P.2d 709 (Or. App. 1991) (Oregon appeals court upheld a moratorium on residential development intended to safeguard property that the city was considering acquiring for a park based on city's argument that moratorium was needed to protect the park area from residential development while city awaited federal funding.)

<sup>27</sup> *Id.* at 808-09.

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based on "a scientifically unfounded public perception that such use will create adverse health risks..."<sup>28</sup>

In this instance, the AHPC plans to draft two ordinances aimed at protecting historic properties. One is a "demolition delay ordinance" whereby a municipal board or commission such as the Planning & Zoning Commission would review applications for demolition of historic properties and vote on whether the property should be preserved. The hearing would give the public an opportunity to comment, and give the Commission, in conjunction with the Municipality and other interested parties, time to propose alternatives to demolition. Typically, demolition-delay ordinances do not absolutely preclude historic properties from being demolished, but rather are designed to ensure that such properties are not demolished hastily, or without adequate consideration of alternatives to demolition.

The second ordinance to be proposed by the AHPC is the enactment of a historic overlay zoning district. In an overlay zoning district, properties in the district are subject to additional regulations and standards in combination with the requirements of the underlying zoning district.<sup>29</sup> A historic overlay district would subject property owners in the district to more stringent standards regarding the preservation of the historic character of the properties and the neighborhood.

**Conclusion:** The United States Supreme Court holds that local governments have wide latitude in enacting planning and zoning ordinances to regulate land use for the public welfare, and that land use regulation, by its very nature necessarily impairs private property rights.<sup>30</sup> If the Anchorage Assembly were to adopt a moratorium on the demolition or renovation of historic properties for a definite period of time while AHPC drafts an ordinance to address demolition and renovation of historic properties, it should be able to withstand a regulatory takings challenge. Making the expiration flexible depending upon when the Assembly adopts the new ordinance(s) is one strategy for ensuring that the moratorium is for a reasonable length of time.

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<sup>28</sup> *Cellular Tel. Co. v. Vill. of Tarrytown*, 209 A.D.2d 57, 59 (N.Y. App. Div. 1995).

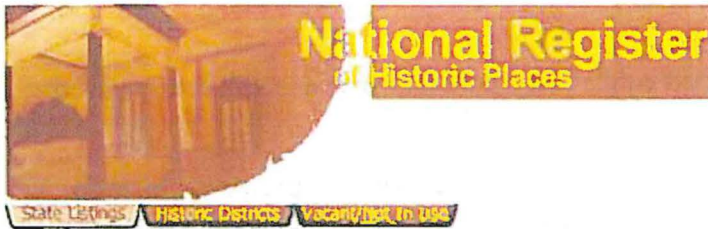
<sup>29</sup> AMC 21.04.070.

<sup>30</sup> Steve J. Eagle, *Planning Moratoria and Regulatory Takings: The Supreme Court's Fairness Mandate Benefits Landowners*, 31 Fla. St. U. L. Rev. 429 (Spring, 2004).

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National Register of Historical Places - ALASKA (AK), Anchorage County




ATTACHMENT #3



ALASKA - Anchorage County


	<p><b>A. E. C. Cottage No. 23</b> (added 1990 -- #90000825)                  Also known as <b>DeLong Cottage</b>; AHR Site No. ANC-325                  618 Christensen Dr., Anchorage</p> <p style="text-align: right;"><b>PRIVATE PROPERTY</b></p>
	<p>Historic Significance: Event                  Area of Significance: Exploration/Settlement                  Period of Significance: 1925-1949, 1900-1924                  Owner: Private                  Historic Function: Domestic                  Historic Sub-function: Single Dwelling                  Current Function: Commerce/Trade                  Current Sub-function: Professional</p>
	<p><b>Alaska Engineering Commission Cottage No. 25</b> (added 1996 -- #96000094)                  Also known as <b>AEC Cottage No. 25</b>; AHR Site No. ANC-330                  645 W. Third Ave., Anchorage</p>
	<p>Historic Significance: Event                  Area of Significance: Community Planning And Development                  Period of Significance: 1923-1949, 1900-1924                  Owner: Local                  Historic Function: Domestic                  Historic Sub-function: Institutional Housing                  Current Function: Commerce/Trade                  Current Sub-function: Business</p>
	<p><b>Alex, Mike, Cabin</b> (added 1982 -- #82002071)                  Also known as <b>AHR Site No. ANC-111</b>; <b>Alex Place, Eklutna</b>                  Off AK 1, Eklutna</p> <p style="text-align: right;"><b>PRIVATE PROPERTY</b></p>
	<p>Historic Significance: Person, Event                  Historic Person: Alex, Chief Mike                  Area of Significance: Native American, Social History, Religion                  Period of Significance: 1950-1974, 1925-1949                  Owner: Private                  Historic Function: Domestic                  Historic Sub-function: Single Dwelling                  Current Function: Domestic                  Current Sub-function: Single Dwelling</p>
	<p><b>Anchorage Cemetery</b> (added 1993 -- #93000320)                  Also known as <b>Anchorage Memorial Park Cemetery</b>; AHR Site No. ANC-766                  535 E. 9th Ave., Anchorage</p>
	<p>Historic Significance: Event                  Area of Significance: Exploration/Settlement, Social History                  Period of Significance: 1925-1949, 1900-1924                  Owner: Local                  Historic Function: Funerary                  Historic Sub-function: Cemetery                  Current Function: Funerary                  Current Sub-function: Cemetery</p>
	<p><b>Anchorage City Hall</b> (added 1980 -- #80000745)                  Also known as <b>AHR ANC-240</b>                  524 W. 4th Ave., Anchorage</p>
	<p>Historic Significance: Person, Event, Architecture/Engineering                  Architect, builder, or engineer: Gansineau Construction Co., Seville, Ellsworth E.                  Architectural Style: No Style Listed                  Historic Person: Brown, Mayor H.E. et al                  Significant Year: 1936</p>


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	<p>Area of Significance: Politics/Government, Community Planning And Development, Architecture                  Period of Significance: 1925-1949                  Owner: Local                  Historic Function: Government                  Historic Sub-function: City Hall, Government Office                  Current Function: Commerce/Trade                  Current Sub-function: Financial Institution</p>	
R	<p><b>Anchorage Depot (added 1999 - - #99001027)</b>                  Also known as Alaska Railroad Depot                  411 W First Ave., Anchorage</p>	
	<p>Historic Significance: Event                  Area of Significance: Transportation                  Period of Significance: 1925-1949                  Owner: Local                  Historic Function: Transportation                  Historic Sub-function: Rail-Related                  Current Function: Commerce/Trade, Transportation                  Current Sub-function: Business, Rail-Related</p>	
	<p><b>Anchorage Hotel Annex (added 1999 - - #99000443)</b>                  Also known as Hotel Ronald Lee                  330 E St., Anchorage</p>	<b>PRIVATE PROPERTY</b>
	<p>Historic Significance: Event                  Area of Significance: Commerce                  Period of Significance: 1925-1949                  Owner: Private                  Historic Function: Commerce/Trade, Domestic                  Historic Sub-function: Hotel, Multiple Dwelling, Specialty Store                  Current Function: Commerce/Trade, Domestic                  Current Sub-function: Hotel, Specialty Store</p>	
R	<p><b>Anderson, Oscar, House (added 1978 - - #78000514)</b>                  Also known as AHRS Site No. ANC-098                  4th Ave. extended, Anchorage</p>	
	<p>Historic Significance: Person, Architecture/Engineering                  Architect, builder, or engineer: Multiple                  Architectural Style: No Style Listed                  Historic Person: Anderson, Oscar                  Significant Year: 1979, 1915                  Area of Significance: Commerce, Architecture                  Period of Significance: 1900-1924                  Owner: Local                  Historic Function: Domestic                  Historic Sub-function: Single Dwelling                  Current Function: Vacant/Not In Use</p>	
R	<p><b>Beluga Point Site (added 1978 - - #78000515)</b>                  Also known as AHRS ANC-054                  Address Restricted, Anchorage</p>	
	<p>Historic Significance: Information Potential                  Area of Significance: Prehistoric                  Cultural Affiliation: Athapaskan, Eskimo                  Period of Significance: 3000-4999 BC, 1000-2999 BC, 1000 AD-999 BC                  Owner: State                  Historic Function: Domestic                  Historic Sub-function: Camp                  Current Function: Landscape                  Current Sub-function: Park</p>	
	<p><b>Bieri, Sam, House (added 1978 - - #78003468)</b>                  136 W. Seventh Ave., Anchorage</p>	<b>PRIVATE PROPERTY</b>
	<p>Owner: Private</p>	
	<p><b>Campus Center (added 1979 - - #79000409)</b>                  Also known as AHRS Site No. ANC-251; Student Center; AMU                  University Drive, Anchorage</p>	<b>PRIVATE PROPERTY</b>
	<p>Historic Significance: Event                  Area of Significance: Politics/Government                  Period of Significance: 1950-1974                  Owner: Private</p>	


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	<p>Historic Function Education, Social          Historic Sub-function College, Meeting Hall          Current Function Education          Current Sub-function College</p>
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	<p><b>Civil Works Residential Dwellings (added 2004 - - #04000717)</b>          Also known as AHRIS Site Nos. ANC-00048 &amp; ANC-01205          786 and 800 Delaney St , Anchorage</p>
	<p>Historic Significance Event, Person          Historic Person Talley, BG Benjamin B          Significant Year 1941          Area of Significance Military          Period of Significance 1925-1949          Owner Local          Historic Function Domestic          Historic Sub-function Institutional Housing          Current Function Domestic          Current Sub-function Single Dwelling</p>

	<p><b>Crow Creek Consolidated Gold Mining Company (added 1978 - - #78000517)</b>          Also known as AHRIS Site No. SEW-191; Crow Creek Gold Mining Co.; Crow Creek          NE of Girdwood , Girdwood</p>
	<p>Historic Significance Event          Area of Significance Exploration/Settlement, Industry          Period of Significance 1900-1974, 1875-1899          Owner Federal, Private          Historic Function Domestic, Industry/Processing/Extraction          Historic Sub-function Camp, Extractive Facility          Current Function Domestic          Current Sub-function Single Dwelling</p>
	<p><b>PRIVATE AND          FEDERAL          PROPERTY</b></p>






	<p><b>David, Leopold, House (added 1986 - - #86001900)</b>          605 W. Second Ave. , Anchorage</p>
	<p>Historic Significance Architecture/Engineering, Person          Architect, builder, or engineer Unknown          Architectural Style Bungalow/Craftsman          Historic Person David, Leopold          Significant Year 1917          Area of Significance Politics/Government, Architecture          Period of Significance 1900-1924          Owner Private          Historic Function Domestic          Historic Sub-function Single Dwelling          Current Function Commerce/Trade          Current Sub-function Professional</p>
	<p><b>PRIVATE PROPERTY</b></p>

	<p><b>Eklutna Power Plant (added 1980 - - #80000746)</b>          Also known as Anchorage Power and Light Company; Old Eklutna Power Plant; A1          NE of Anchorage , Anchorage</p>
	<p>Historic Significance Architecture/Engineering          Architect, builder, or engineer Jasper &amp; Stacey          Architectural Style No Style Listed          Area of Significance Economics, Engineering          Period of Significance 1950-1974, 1925-1949          Owner Federal          Historic Function Industry/Processing/Extraction          Historic Sub-function Energy Facility          Current Function Vacant/Not In Use</p>






	<p><b>FAA DC-3 Aircraft N-99 (added 1977 - - #77001588)</b>          FAA Hangar, International Airport , Anchorage</p>
	<p>Owner Federal</p>

	<p><b>Federal Building-U.S. Courthouse (added 1978 - - #78000516)</b>          Also known as AHRIS No. ANC-128; Old Post Office; Federal Bldg; US Post Office          601 W. 4th Ave. , Anchorage</p>
	<p>Historic Significance Person, Event, Architecture/Engineering          Architect, builder, or engineer Multiple          Architectural Style Other          Historic Person Hellenthal, Judge Simon, et al</p>






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	<p>Significant Year: 1939                  Area of Significance: Politics/Government, Community Planning And Development, Agriculture                  Period of Significance: 1925-1949                  Owner: Federal                  Historic Function: Government                  Historic Sub-function: Courthouse, Government Office, Post Office                  Current Function: Government                  Current Sub-function: Courthouse, Post Office</p>	
	<p><b>Fourth Avenue Theatre (AHRS Site No. ANC-284) (added 1982 - - #82001620)</b>                  Also known as The Lathrop Building; Lathrop's Showhouse                  630 W. 4th Ave., Anchorage</p>	<b>PRIVATE PROPERTY</b>
	<p>Historic Significance: Person, Architecture/Engineering                  Architect, builder, or engineer: Porreca, A.A., Priteca, B. Mareas                  Architectural Style: Art Deco                  Historic Person: Lathrop, Austin "Cap"                  Significant Year: 1947, 1941                  Area of Significance: Art, Architecture, Entertainment/Recreation, Communications                  Period of Significance: 1925-1949                  Owner: Private                  Historic Function: Recreation And Culture                  Historic Sub-function: Theater                  Current Function: Commerce/Trade, Recreation And Culture                  Current Sub-function: Professional, Theater</p>	
	<p><b>Gill, Oscar, House (added 2001 - - #01000022)</b>                  Also known as AHRS No. ANC-00412                  1344 W. 10th Ave., Anchorage</p>	<b>PRIVATE PROPERTY</b>
	<p>Historic Significance: Event, Architecture/Engineering                  Architect, builder, or engineer: Gill, Oscar Stephen                  Architectural Style: Bungalow/Craftsman                  Area of Significance: Architecture, Exploration/Settlement                  Period of Significance: 1925-1949, 1900-1924                  Owner: Private                  Historic Function: Domestic                  Historic Sub-function: Single Dwelling                  Current Function: Domestic                  Current Sub-function: Single Dwelling</p>	
	<p><b>Indian Valley Mine (added 1989 - - #89001762)</b>                  Also known as Strong Mine; AHRS Site No. SEW-412                  Address Restricted, Indian</p>	<b>PRIVATE PROPERTY</b>
	<p>Historic Significance: Event                  Area of Significance: Industry                  Period of Significance: 1925-1949, 1900-1924                  Owner: Private                  Historic Function: Industry/Processing/Extraction                  Historic Sub-function: Extractive Facility                  Current Function: Commerce/Trade                  Current Sub-function: Specialty Store</p>	
	<p><b>KENI Radio Building (added 1988 - - #88000380)</b>                  Also known as AHRS Site No. ANC-361                  1777 Forest Park Dr., Anchorage</p>	<b>PRIVATE PROPERTY</b>
	<p>Historic Significance: Architecture/Engineering                  Architect, builder, or engineer: Swaffing, Al, Porreca, A.A.                  Architectural Style: Art Deco                  Area of Significance: Architecture                  Period of Significance: 1925-1949                  Owner: Private                  Historic Function: Industry/Processing/Extraction                  Historic Sub-function: Communications Facility                  Current Function: Industry/Processing/Extraction                  Current Sub-function: Communications Facility</p>	
	<p><b>Kimball's Store (added 1986 - - #86001901)</b>                  Also known as Kimball Building; Kimball Dry Goods; Gold Pan; Kobuk Coffee Con                  500 and 504 W. Fifth Ave., Anchorage</p>	<b>PRIVATE PROPERTY</b>
	<p>Historic Significance: Event                  Area of Significance: Exploration/Settlement, Commerce                  Period of Significance: 1900-1924                  Owner: Private</p>	

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	<p>Historic Function: Commerce/Trade                  Historic Sub-function: Department Store                  Current Function: Commerce/Trade, Domestic                  Current Sub-function: Single Dwelling, Specialty Store</p>	
	<p><b>Lathrop Building (added 1987 -- #8400629)</b>                  Also known as The Empress Building                  801 W 4th Ave., Anchorage</p>	
	<p>Historic Significance: Event, Person, Architecture/Engineering                  Architect, builder, or engineer Purvis, George                  Architectural Style: No Style Listed                  Historic Person: Lathrop, Austin E.                  Significant Year: 1916, 1915                  Area of Significance: Commerce, Architecture                  Period of Significance: 1900-1924                  Owner: State                  Historic Function: Commerce/Trade, Domestic                  Historic Sub-function: Multiple Dwelling, Professional, Specialty Store                  Current Function: Commerce/Trade                  Current Sub-function: Business, Restaurant, Specialty Store</p>	
	<p><b>Loussac-Soga Building (added 1998 -- #98000567)</b>                  Also known as ANC-359                  425 D St., Anchorage</p>	
	<p>Historic Significance: Architecture/Engineering                  Architect, builder, or engineer: Witt, W H., Co., Manley, William A.                  Architectural Style: Moderne                  Area of Significance: Architecture                  Period of Significance: 1925-1949                  Owner: Local                  Historic Function: Commerce/Trade                  Historic Sub-function: Business, Professional                  Current Function: Domestic                  Current Sub-function: Multiple Dwelling, Specialty Store</p>	
	<p><b>McKisley Tower Apartments (added 2008 -- #08000882)</b>                  Also known as MacKay Building                  337 E. 4th Ave., Anchorage</p>	<b>PRIVATE PROPERTY</b>
	<p>Historic Significance: Event                  Area of Significance: Community Planning And Development                  Period of Significance: 1950-1974                  Owner: Private                  Historic Function: Domestic                  Historic Sub-function: Multiple Dwelling                  Current Function: Domestic                  Current Sub-function: Multiple Dwelling</p>	
	<p><b>Mt. Alyeska Roundhouse (added 2003 -- #02000562)</b>                  Also known as Sundeck; Upper Terminal Chair Lift No. 1                  Approx. 2 mil W of Alyeska, Girdwood</p>	<b>PRIVATE PROPERTY</b>
	<p>Historic Significance: Event                  Area of Significance: Entertainment/Recreation                  Period of Significance: 1950-1974                  Owner: State, Private                  Historic Function: Recreation And Culture                  Historic Sub-function: Outdoor Recreation                  Current Function: Recreation And Culture                  Current Sub-function: Outdoor Recreation</p>	
	<p><b>Old St. Nicholas Russian Orthodox Church (added 1972 -- #72000189)</b>                  Eklutna Village Rd., Eklutna</p>	<b>PRIVATE PROPERTY</b>
	<p>Historic Significance: Event                  Area of Significance: Religion                  Period of Significance: 1875-1899, 1850-1874                  Owner: Private                  Historic Function: Religion                  Historic Sub-function: Religious Structure                  Current Function: Unknown</p>	

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	<p>Pioneer School House (added 1920 - - #8000747)                  Also known as AHRIS ANC-244                  3rd Ave and Eagle St , Anchorage</p>
	<p>Historic Significance: Event                  Area of Significance: Education, Social History                  Period of Significance: 1900-1924                  Owner: Local                  Historic Function: Education                  Historic Sub-function: School                  Current Function: Social                  Current Sub-function: Meeting Hall</p>
	<p>Potter Section House (added 1985 - - #85003113)                  Also known as AHRIS SITE NO. ANC-075                  Off AK 1 , Anchorage</p>
	<p>Historic Significance: Event                  Area of Significance: Transportation                  Period of Significance: 1925-1949                  Owner: State                  Historic Function: Domestic; Transportation                  Historic Sub-function: Institutional Housing, Rail-Related                  Current Function: Transportation                  Current Sub-function: Park</p>
	<p>Site Summit (added 1996 - - #96000691)                  Also known as AHRIS Site No. ANC-789                  Off Arctic Valley Rd , 12.5 mi. E of Anchorage , Anchorage</p>
	<p>Historic Significance: Event                  Area of Significance: Military                  Period of Significance: 1975-2000, 1950-1974                  Owner: Federal                  Historic Function: Defense                  Historic Sub-function: Air Facility                  Current Function: Work in Progress</p>
	<p>Spring Creek Lodge (added 2001 - - #01000938)                  18939 Old Glen Hwy. , Chugiak</p>
	<p>Historic Significance: Event                  Area of Significance: Exploration/Settlement                  Period of Significance: 1925-1949                  Owner: Private                  Historic Function: Commerce/Trade                  Historic Sub-function: Restaurant                  Current Function: Domestic                  Current Sub-function: Single Dwelling</p>
	<p>Wendler Building (added 1982 - - #82004973)                  Also known as Club 25; AHRIS Site No. ANC-130                  410 J St. , Anchorage</p>
	<p>Historic Significance: Event, Person, Architecture/Engineering                  Architect, builder, or engineer: Unknown                  Architectural Style: No Style Listed                  Historic Person: Wendler, A.J.                  Significant Year: 1987, 1915                  Area of Significance: Commerce, Architecture                  Period of Significance: 1900-1924                  Owner: Private                  Historic Function: Commerce/Trade, Domestic                  Historic Sub-function: Multiple Dwelling, Specialty Store                  Current Function: Commerce/Trade                  Current Sub-function: Professional</p>

 Government Hill Federal Housing Historic District - PRIVATE PROPERTIES

Government Hill Wireless Station - Listed 2016

# APPENDIX A

OpenStreetMap for Wikipedia - Wikipedia article: National Register of Historic Places listings in Anchorage, Alaska (33 ... Page 1 of 1

**Current listings**

- Alaska Engineering Commission Cottage No. 23
- Alaska Engineering Commission Cottage No. 25
- Alaska Alex Cabin
- Anchorage Cemetery
- Anchorage City Hall
- Anchorage Depot
- Anchorage Hotel Annex
- Clyde Anderson House
- Campus Center
- Civil Works Residential Dwellings
- Crow Creek Consolidated Gold Mining Company
- Leopold David House
- Fluora Power Plant
- Federal Building U.S. Courthouse
- East Rehabilitation Hospital Cemetery
- Fourth Avenue Theatre (AKHS Site No. ANC-284)
- Oliver GR House
- Government Hill Federal Housing Historic District
- NEEN Radio Building
- Remond's Store
- Lois and Leah Building
- Moskaly Tower Apartments
- St. Alexia's Roundhouse
- Old St. Nicholas Russian Orthodox Church
- Oliver 1000 Asphalt
- Pioneer School House
- Potter Sexton House
- Site Bumbui
- Spring Creek Lodge
- Terminal P. 38G Lehigh
- Wander Building
- The Wireless Station

**Former listings**

- Ulmrook Building

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OpenStreetMap for Wikipedia - Wikipedia article: National\_Register\_of\_Historic\_Places\_listings\_in\_Anchorage,\_Alaska (33 ... Page 1 of 1

**Current listings**

- Alaska Engineering Commission College No. 23
- Alaska Engineering Commission College No. 29
- Mike Alex Cabin
- Anchorage Cemetery
- Anchorage City Hall
- Anchorage Depot
- Anchorage Hotel Annex
- Oscar Anderson House
- Campus Center
- Civil Works Residential Development
- Crow Creek Consolidated Gold Mining Company
- Leopold David House
- Elmura Power Plant
- Federal Building-U.S. Courthouse
- Fort Richardson National Cemetery
- Fourth Avenue Theatre (AHRS Site No. AKG-284)
- Oscar Gill House
- Government Hill Federal Housing Historic District
- KENI Radio Building
- Kimball's Store
- Loussac-Soon Building
- McKinley Tower Apartments
- Al. Alveka Roundhouse
- Old St. Nicholas Russian Orthodox Church
- Pilgrim 100B Aircraft
- Pioneer School House
- Poller Section House
- Silo Summit
- Spring Creek Lodge
- Tennac P-39G Lightning
- Wanderer Building
- The Wireless Station

**Former listings**

- Lathrop Building

Map labels include: Fort Air Base, Fort Richardson, Lake River, D.C. Park, Lake Park, Club, and various streets like 4th St, 5th St, 6th St, 7th St, 8th St, 9th St, 10th St, 11th St, 12th St, 13th St, 14th St, 15th St, 16th St, 17th St, 18th St, 19th St, 20th St, 21st St, 22nd St, 23rd St, 24th St, 25th St, 26th St, 27th St, 28th St, 29th St, 30th St, 31st St, 32nd St, 33rd St, 34th St, 35th St, 36th St, 37th St, 38th St, 39th St, 40th St, 41st St, 42nd St, 43rd St, 44th St, 45th St, 46th St, 47th St, 48th St, 49th St, 50th St, 51st St, 52nd St, 53rd St, 54th St, 55th St, 56th St, 57th St, 58th St, 59th St, 60th St, 61st St, 62nd St, 63rd St, 64th St, 65th St, 66th St, 67th St, 68th St, 69th St, 70th St, 71st St, 72nd St, 73rd St, 74th St, 75th St, 76th St, 77th St, 78th St, 79th St, 80th St, 81st St, 82nd St, 83rd St, 84th St, 85th St, 86th St, 87th St, 88th St, 89th St, 90th St, 91st St, 92nd St, 93rd St, 94th St, 95th St, 96th St, 97th St, 98th St, 99th St, 100th St.

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**Current listings**

- Alaska Engineering Commission College No. 23
- Alaska Engineering Commission College No. 25
- Ake Alex Caber
- Anchorage Cemetery
- Anchorage City Hall
- Anchorage Depot
- Anchorage Hotel Annex
- Oscar Anderson House
- James Center
- Civil Works Residential Dwelling
- Crow Creek Consolidated Gold Mining Company
- Leopold David House
- Palma Power Plant
- Federal Building 12 S. Courthouse
- Fed. Buildings on National Cemetery
- Fourth Avenue Theatre (AHSR Site No. ANC-284)
- Oscar Gill House
- Government Hill Federal Housing Project (1940s)
- Grant Radio Building
- Kruswitz Store
- Louiseac Soap Building
- McKibben Tower Apartments
- Mt. Alaska Roundhouse
- Old St. Nicholas Russian Orthodox Church
- Alphon 1006 Annex
- Shooker School House
- Patterson School House
- Sie Summit
- Serra Creek Lodge
- Temple P-38G Lightning
- Wendler Building
- The Wireless Station

**Former listings**

- Shipping Building



## Municipality of Anchorage Historic Preservation Plan

Overview of Ordinances Specific to Demolition Delays to Allow for Impact Assessment  
August 23, 2016

*There is a tension between historical preservation and urban progress in nearly every part of the country.*

### Introduction

Laws governing private actions affecting historic resources are primarily enacted at the local level pursuant to state enabling authority. Through historic preservation ordinances and demolition review laws, local jurisdictions regulate changes to historic resources that would irreparably change or destroy their character. Most local ordinances are administered by a local preservation commission or design review board with the authority to grant or deny a permit to change historic property.

Historic preservation is quite often accomplished by demolition delays. Many jurisdictions enact a Demolition Delay Ordinance to protect historic resources and historic building stock and to allow for community input in the development process. The ordinance serves as a temporary safety net for historic buildings threatened by demolition. It is widely used all over the country to provide communities with a means to ensure potentially significant buildings and structures are not demolished without notice and some level of review by the preservation commission.

Typically, the local historic preservation commission will vote on whether or not to find the building preferably preserved, meaning its loss would be detrimental to the city, and to impose a demolition delay. The delay is the central component of the ordinance, and its purpose is to add options to save the building before obtaining of a demolition permit.

Demolition review does not always prevent the demolition of historically significant buildings or structures. Communities that are seeking to permanently prevent demolitions should pursue a local historic district or local landmark designation.

### Constitutional Issues

Demolition Review and Delay Ordinances, must be within the limitations of state and federal constitutional provisions that protect the rights of individuals and organizations. Constitutional challenges to these ordinances generally arise under the Takings, the Due Process and the Equal Protection Clauses of the Fifth and Fourteenth Amendments to the U.S. Constitution.

### Regulatory Takings

Property owners challenging historic preservation laws sometimes argue that such laws, either generally or in their application in a specific case, amount to a taking of private property. The vast majority of preservation cases involving takings claims focus on the question of economic impact.

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However, taking claims involving the delay or denial of permission to alter or demolish historic structures are routinely dismissed when the owner can realize a reasonable rate of return on his or her investment or can continue to use the property in its current condition or upon rehabilitation.

### Due Process and Equal Protection

Two basic constitutional concepts underlie all regulatory laws in the United States, including any effort to protect historic property – fairness and equal treatment. Known in legal terminology as “due process” and “equal protection,” they require that restrictions imposed on individual rights be free from arbitrary or discriminatory treatment and that the individual receives sufficient notice and an opportunity to be heard.

#### Procedural Due Process

The most fundamental requirement of procedural due process is the opportunity to be heard. Therefore, a hearing is generally held in a historical preservation case that is considering an application to alter or demolish property. The hearing provides all interested persons sufficient opportunity to present their cases fairly in a meeting open to the public. Such hearings usually follow specific statutory procedures relating to the timing and process for conducting hearings. The procedures address such issues as the presentation of the staff report, the presentation of the applicant and expert witnesses, consideration of testimony of other interested persons or organizations. A record of the proceedings is made, and a formal decision based on the factors prescribed is issued.

Notice in advance of the hearing must be both timely and sufficiently clear so that affected individuals will be able to appear and contest issues in a meaningful way. Notice is generally provided in one of three forms: individual mailed notice; published notice (usually through a local newspaper); and posted notice (unusually a sign on the property at issue). Property owners or occupants of property directly affected by decisions related to an application for *certificate of appropriateness* are generally entitled to individual notice by mail.

The right to be heard also includes the right to an impartial proceeding. Commission members must be impartial and must also avoid ex parte contacts that are not part of the public record and which other interested parties have not been given reasonable notice.

#### Equal Protection

Equal Protection means that similarly situated property should be treated similarly under the law. Different treatment, however, of similar property will be upheld in reasonable grounds exist for the disparity.

The uniform application of written criteria and standards is critical to the integrity of governmental actions. While criteria governing the review of proposed actions affecting historic resources need not be precise to pass constitutional muster, it is clear that they must be fairly and uniformly applied.

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### Best Practices Procedures and Criteria for Demolition Review and Delays

The overall goal and purpose of a Demolition Review and Delay Ordinance is to protect a community's historic resources from demolition. Demolition delays permit property owners to demolish historic properties after a specific waiting period, during which time a city or town, along with private preservation groups, can explore alternative actions to save the building.

The filing of an application for a total demolition permit should trigger a demolition review procedure. However, in some jurisdictions the filing of an application for a partial demolition or a request for permits to move or substantially alter buildings will also require review.

Demolition Review and Delay Ordinances vary. Some ordinances require the designated property be kept structurally sound and may empower a commission to make repairs and seek reimbursement in instances where a property is essential being demolished by neglect. Many ordinances either provide for appeal to another administrative body or specify the appeal is to be made directly to the court. Penalties for unlawful alterations or demolitions may include the denial of a building permit for a number of years or mandatory reconstruction.

The typical flow of a demolition review and delay ordinance's process includes the methods for the trigger of review, the initial staff and community review process, the public hearing process, the actual delay period, and staff review that occur once a delay has been implemented. By establishing a referral mechanism (e.g., a permit process that includes demolition review procedures), communities can be assured that buildings meriting preservation will not fall through the cracks.

#### The trigger for review

Demolition review is typically required for all buildings built before a specific date or all buildings that have attained a certain age on the date the permit application is filed. This is because some buildings with distinguishing features that help to make a community an attractive place to live or work may not have been evaluated for historic significance or may not meet the standards for local, state or federal designation. Many communities use fifty years as a critical benchmark but some jurisdictions have opted for a shorter or longer time period, largely in recognition of their younger or older building stock. Alternatively, the demolition ordinance may only apply to properties identified on a historic survey, or listed on a state historic register or the National Register of Historic Places or buildings located within a specific geographic area.

#### Initial staff and community review process

In most communities, the permitting official is directed to refer a demolition permit application to a review body (e.g., the city's Historic Preservation Officer or Planning Director) for an initial or preliminary determination of significance. If, after an initial review the review body finds the building to meet the criteria for historical significance, the building and its applicant are put on an agenda for a historic preservation commission public hearing meeting. Abutting property owners are notified of the hearing and the community has an opportunity to provide input.

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### The public hearing process

In order for a delay to be placed upon a structure, most historic preservation commissions must find that, in considering the public interest, it is preferable that the building or structure be preserved or rehabilitated rather than demolished, altered or moved. Factors for consideration might include: (a) the building's historic, architectural, and urban design significance; (b) whether the building is one of the last remaining examples of its kind in the neighborhood, the city, or the region; (c) the building's condition; (d) the relationship of the building to the character of the neighborhood as an established and deniable area; or (e) the reasonable projected cost of restoration.

If the Commission agrees the building or structure is historically significant under specific criteria, the commission votes on whether or not to find the building's loss to be detrimental to the city and to impose a demolition delay.

### The actual delay period

A primary factor to the importance and success of a demolition review and delay ordinance is the actual period of delay. This is the time allotted that allows the community and local government to participate to the fullest extent, become educated on the proposed development, and provides time to seek possible alternatives to demolition. The delay periods typically run from thirty days to two years and may allow for the issuance of the demolition permit before the expiration of the delay period if the commission is satisfied that permit applicant has made a bona fide, reasonable and unsuccessful effort to preserve, rehabilitate, or restore the building or structure or has agreed to accept specified conditions approved by the commission.

### Staff review once the delay has been implemented

It is important to the success of the ordinance, that it is further upheld after a determination has been made. Post-staff review also ensures that any additional requirements of the ordinance are upheld by the demolition applicant, prior to the issuance of a demolition permit.

### **Findings and Conclusions**

#### Legal Options

If the Municipality of Anchorage wants to adopt an ordinance that will delay the demolition of historically significant buildings and structures it has two legal options. The first option is enacting a Demolition Review and Delay Ordinance that would delay demolition of historically significant buildings and structures whether or not they are designated historic landmarks or contributing structures in an historic district. This is the preferred option.

If the municipality currently lacks the authority to deny demolition permits because of state enabling legislation it should consider adding demolition delay provisions to its historic preservation ordinance, however, the provisions will only prevent demolition of buildings or structures that have already been designated as historic landmarks or as contributing structures in a historic district.

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With either option, the demolition delay ordinance or demolition delay provisions must set forth procedures and criteria for reviewing requests to demolish such properties. These procedures and criteria will be administered by the Historic Preservation Commission (HPC). Additionally, the legislation creating the ordinance or provisions might include a moratorium on the demolition of certain buildings and structures to allow time for consideration and possible passage of the law. This would stop or preclude the demolition of historic buildings or structures while the legislation is under consideration.

### Legislation Considerations

The legislation that establishes the Demolition Delay ordinance or Demolition-Delay provisions should be drafted by a qualified attorney or staff person who is familiar with state enabling legislation and the local historic preservation environment. Basic considerations include the types and number of buildings likely to require review, who should conduct the review, and how the law would relate to Anchorage's historic preservation program. Anchorage should also seek to –

- Establish an efficient process that provides a quick and efficient means for ensuring that permits on non-significant buildings are not held up unnecessarily.
- Have resources in place which help applicants and/or permitting officials determine the age and significance of their buildings.
- Avoid limiting the law's protection to a small category of buildings or list of structures.
- Include effective notice provisions for property owners and the general public.
- Prescribe meaningful delay periods that provide time to pursue alternatives.
- Give the HPC the necessary tools to negotiate a solution and enable the commission to draw on the expertise of other city officials and stakeholders.
- Enable the property to be designated, if designation is warranted.
- Ensure that penalties effectively deter noncompliance and be prepared to enforce the ordinance if violations occur.
- Recognize exceptions upon a showing of economic hardship or where public safety is at stake.

### Example Ordinances

While demolition review laws can vary significantly, the following is an example of demolition review and delay ordinances that have been adopted around the country. Many more can be found on the internet.

Connecticut Trust for Historic Preservation, Model Demolition Delay Ordinance (Revised Oct 2015), ,  
<http://ctrust.org/ctrust/page/model-demolition-delay-ordinance>

City of Dallas, Texas, Demolition Delay Ordinance,  
[http://dallascityhall.com/departments/sustainabledevelopment/historicpreservation/Pages/demolition\\_delay.aspx](http://dallascityhall.com/departments/sustainabledevelopment/historicpreservation/Pages/demolition_delay.aspx)

City of Cambridge, Massachusetts, Demolition Delay,  
<https://www.cambridgema.gov/historic/districtsHistoricProperties/demolitiondelay>

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City of Boston, "Article 85 Demolition Delay," accessed March 16, 2015,  
<http://www.cityofboston.gov/landmarks/article85/>.

City of Chicago, "Demolition Delay," accessed March 16, 2015,  
[http://www.cityofchicago.org/city/en/depts/dcd/supp\\_info/demolition\\_delay.html](http://www.cityofchicago.org/city/en/depts/dcd/supp_info/demolition_delay.html).

City of Pittsfield, "Demolition Delay Ordinance for the Preservation of Historically Significant Structures," accessed March 16, 2015,  
[http://www.cityofpittsfield.org/document\\_center/Demolition\\_Delay\\_Ordinance\\_Forms.pdf](http://www.cityofpittsfield.org/document_center/Demolition_Delay_Ordinance_Forms.pdf).

Town of Weston, "The A-B-C's of the Demolition Delay Process," accessed March 16, 2015, <http://westhiscomm.org/sample-page/>

City of Los Angeles, Sec. 22.171.12. Temporary Stay of Demolition, Substantial Alteration or Removal Pending Determination to Designate a Monument, Chapter 9 Department of City, [http://preservation.lacity.org/files/Cultural\\_Heritage\\_Ordinance.pdf](http://preservation.lacity.org/files/Cultural_Heritage_Ordinance.pdf)

### Bibliography

Julia H. Miller, "A Layperson's Guide to Historic Preservation Law," National Trust for Historic Preservation (Law Center Publications), <https://into.org/wp-content/uploads/2015/09/2199-Laypersons-Guide-to-Preservation-Law.pdf>

Julia H. Miller, "Protecting Potential Landmarks through Demolition Review," National Trust for Historic Preservation (Law Center Publications), accessed January 26, 2015, 78, [http://www.preservationnation.org/information-center/sustainablecommunities/creating/teardowns/demolition\\_review.pdf](http://www.preservationnation.org/information-center/sustainablecommunities/creating/teardowns/demolition_review.pdf)

Valerie Fram, "A Policy Analysis of the City of Newton, Massachusetts' Demolition Delay Ordinance" (2015). *Historic Preservation Capstone Projects*. Paper 9, [http://docs.rwu.edu/hp\\_capstone\\_project/9](http://docs.rwu.edu/hp_capstone_project/9)

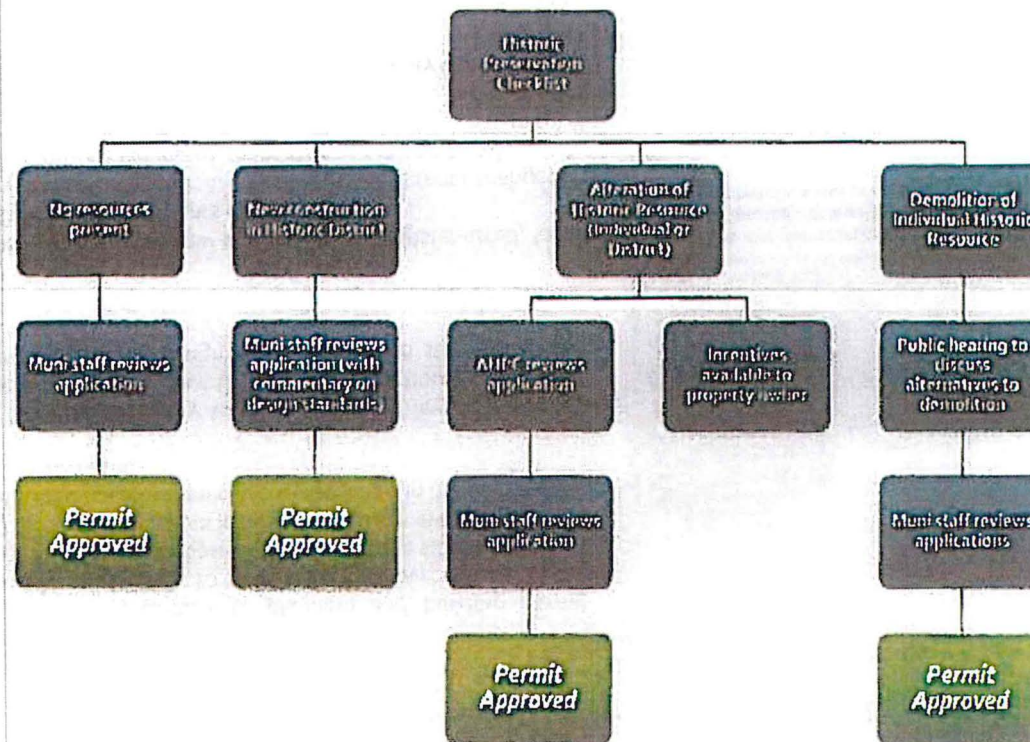
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## SAMPLE DESIGN REVIEW PROCESS

Building Permit  
Application Submitted

Historic Status

Approvals Process



The details of the historic preservation design review process in the Four Original Neighborhoods will be developed once a historic district is designated or a historic overlay zone is created, and will require additional input from property owners and decision-makers at such time. This chart outlines one possible structure for design review process using the procedures and principles recommended in the HPP.



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- 7.2.2 Add a "historic preservation review" checkbox to planning and building permit applications. This checkbox would prompt users to see if historic resources listed in the Consolidated Historic Resources Inventory Database are present at the subject property and, if so, would allow historic preservation to be included in the review process once applicable authorities are established. Information currently required in building permit applications is outlined in AMC 23.10.104.6.
- 7.2.3 Amend Anchorage Municipal Code as necessary to allow design review of proposed projects involving historic resources in the Four Original Neighborhoods, using the *Secretary of the Interior's Standards* and/or design guidelines. When structuring this design review process, consider the following:
- Who conducts this review (e.g., AHPC, Community Councils, Municipality staff, or other body)?
  - What types of resources are subject to review (e.g., National Register-listed, local landmarks, or all properties greater than 50 years of age)?
  - What actions trigger this review (e.g., demolition, relocation, or all exterior changes)?
  - How is this review administered (e.g., voluntary, mandatory, or in combination with financial incentives)?
- 7.2.4 Clearly define roles of the Historic Preservation Commission, Community Councils, and other entities in historic properties review process.
- 7.2.5 Ensure that Alaska Native Peoples have an opportunity for involvement, if desired (see Policy 7.8).

*See Policy 2.3 for implementation strategies regarding procedures and regulations for stored or moved buildings.*



Adding a historic preservation review checkbox or "demolition delay review" procedures would allow time for consideration of a building's historic status prior to its demolition.



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- 7.3.6 Conduct a Parks Survey to identify historic buildings, landscapes, and trails in municipal parks. For example, trails such as the Tony Knowles Coastal Trail and the ceremonial start of the Iditarod Trail could be evaluated for their significance, and their stories could be interpreted.
- 7.3.7 Update historic resource surveys every five years to capture properties that are newly age-eligible.
- 7.4 Consider creation of one or more Historic Preservation Overlay zoning classifications, as discussed in *Anchorage 2020: Anchorage Bowl Comprehensive Plan*.
- 7.4.1 Work with the Planning and Zoning Commission, Anchorage Historic Preservation Commission, and Community Councils to create Historic Preservation Zoning classifications, if feasible. When structuring these zones, consider the following options:
- Consider establishing broad Original Neighborhood Overlay Zones, one for each neighborhood or sub-area.
  - Consider creating a site-specific historic zoning classification to promote adaptive reuse.
  - Consider creating Historic Preservation Overlay Zones (HPOZs) that can be applied to protect historic districts and manage infill construction within the Four Original Neighborhoods.



Trails such as the ceremonial start of the Iditarod Trail could be evaluated for their significance, and their stories could be interpreted.



# APPENDIX A

## OVERLAY ZONING

The regulatory tool of overlay zoning creates a special zoning district, placed over an existing base zone or zones, which identifies special provisions in addition to those in the underlying base zone.

The overlay district can share common boundaries with the base zone or cut across base zone boundaries. Regulations or incentives are attached to the overlay district to protect a specific resource or guide development within a special area.

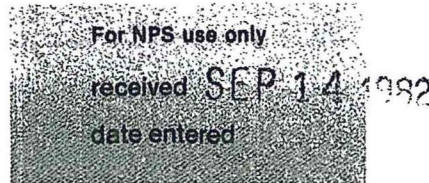
Consider the following options for structuring a historic preservation overlay zone in Anchorage's Four Original Neighborhoods:

1. **Broad Original Neighborhood Overlay Zones:** The purpose of these large zones would be to grant properties protections and exemptions that are tailored to each neighborhood's character and goals. For example, each Original Neighborhood Overlay Zone could enable otherwise-prohibited compatible commercial uses within historic residential zones, or could allow property owners within the zone to qualify for tax credits, low-interest loans, or other incentives.
2. **Site-specific historic zoning classification:** This zoning classification could be applied to each Individual property listed in the Consolidated Historic Resources Inventory Database (or local register, after it is created), and would allow increased flexibility in permitted uses in exchange for official designation. According to AO 2006-175, the ordinance establishing the Anchorage Historic Preservation Commission, it is already within the AHPC's powers and duties to modify the zoning classification of historic properties as Historic Inventory (HI) or Historic Registries (HR), depending on their status.  
  
*Site-specific examples: The S-H Historic Overlay in Eugene, OR, is an excellent example of this strategy: "The S-H Historic overlay designation allows greater flexibility with allowable uses and development standards for the property, with a goal of finding a use that is compatible with the historic character of the property that will help ensure its continued productive use. An example of this is a professional office in a historic house in a residential district where such an office would not normally be permitted. Before a property can receive the S-H Historic zoning designation it must first be designated as a City Landmark or be listed in the National Register of Historic Places."<sup>22</sup>*
3. **Historic District HPOZs:** This zoning classification is targeted to protect historic districts and manage infill construction. These protective overlays could provide for review of proposed exterior alterations and additions to historic properties within designated districts, and could make certain financial incentives available within the zones.  
  
*HPOZ examples: The best example of this strategy is Los Angeles' HPOZs, which are leading the way in preservation overlay zoning policy. There are currently 29 such zones, each of which has its own HPOZ Review Board to conduct design review within the district and report to the City Planning Department.*



United States Department of the Interior  
National Park Service

National Register of Historic Places  
Inventory—Nomination Form



See instructions in *How to Complete National Register Forms*  
Type all entries—complete applicable sections

1. Name

historic Fourth Avenue Theatre (AHR SITE NO. ANC-284)

and/or common The Lathrop Building; Lathrop's Showhouse

2. Location

street & number 630 West Fourth Avenue not for publication

city, town Anchorage vicinity of ~~Congressional district~~

state Alaska code 02 county Anchorage Division code 020

3. Classification

Category	Ownership	Status	Present Use
<input type="checkbox"/> district	<input type="checkbox"/> public	<input checked="" type="checkbox"/> occupied	<input type="checkbox"/> agriculture
<input checked="" type="checkbox"/> building(s)	<input checked="" type="checkbox"/> private	<input type="checkbox"/> unoccupied	<input checked="" type="checkbox"/> commercial
<input type="checkbox"/> structure	<input type="checkbox"/> both	<input type="checkbox"/> work in progress	<input type="checkbox"/> educational
<input type="checkbox"/> site	<b>Public Acquisition</b>	<b>Accessible</b>	<input checked="" type="checkbox"/> entertainment
<input type="checkbox"/> object	<input type="checkbox"/> in process	<input checked="" type="checkbox"/> yes: restricted	<input type="checkbox"/> government
	<input type="checkbox"/> being considered	<input type="checkbox"/> yes: unrestricted	<input type="checkbox"/> industrial
	<input checked="" type="checkbox"/> NA	<input type="checkbox"/> no	<input type="checkbox"/> military
			<input type="checkbox"/> museum
			<input type="checkbox"/> park
			<input type="checkbox"/> private residence
			<input type="checkbox"/> religious
			<input type="checkbox"/> scientific
			<input type="checkbox"/> transportation
			<input type="checkbox"/> other:

4. Owner of Property

name Wometco Lathrop Building ATTN: Hugh McCauley (907) 277-8659  
Executive Vice President  
street & number P.O. Box 012440 911 W. 4th Ave.  
Anchorage, Alaska 99501

city, town Miami vicinity of state Florida

5. Location of Legal Description

courthouse, registry of deeds, etc. District Recording Office (907) 264-6770

street & number 911 West 4th Avenue

city, town Anchorage state Alaska 99501

6. Representation in Existing Surveys

Patterns of the Past: An Inventory of  
title Anchorage's Heritage Resources (1979) has this property been determined eligible?  yes  no  
Alaska Heritage Resources Survey, OHA, State Div.  
date of Parks, 619 Warehouse, Anchorage, AK99501(1981)  federal  state  county  local  
Michael Carberry, Municipality of Anchorage, Planning Dept., Hill Bldg  
depository for survey records or State Div. of Parks, 619 Warehouse Ave., Anchorage, AK (907)264-4676

city, town Anchorage state Alaska Page 1 of 9

## 7. Description

<b>Condition</b>		<b>Check one</b>	<b>Check one</b>
<input checked="" type="checkbox"/> excellent	<input type="checkbox"/> deteriorated	<input checked="" type="checkbox"/> unaltered	<input checked="" type="checkbox"/> original site
<input type="checkbox"/> good	<input type="checkbox"/> ruins	<input type="checkbox"/> altered	<input type="checkbox"/> moved    date _____
<input type="checkbox"/> fair	<input type="checkbox"/> unexposed		

### Describe the present and original (if known) physical appearance

The 4th Avenue Theatre is a prominent Art Deco Style landmark in the heart of Anchorage's central business district. In fact, the significant Art Deco building takes its name from Anchorage's "Main Street" -- Fourth Avenue. It is the most important edifice in Alaska to honor the noted public figure, Austin E. "Cap" Lathrop (1865-1950), a transportation, mining, and theater tycoon -- and one of the earliest multimillionaires in Alaskan history.

Construction of the theatre was the culmination of a 25-year dream for the eminent Austin E. Lathrop. (See significance statement.) "Cap," as the most prominent self-made Alaskan millionaire pioneer (19th and/early 20th century) was generally known, had the intention of leaving the 4th Avenue Theatre and Lathrop Building as "his legacy to the fine people of Alaska." To do so, Mr. Lathrop hired a prominent Seattle-based architectural firm, (Marcus) Priteca and (A.A.) Porreca, to design the building in the late 1930's. C. William Hufeisen was then selected as contractor for the construction -- which was one of the longest in the city's history. Not long after the 1941 groundbreaking, the World War II-induced supply-shortage resulted in a five year hiatus in Alaskan private and public construction. (The delay proved worthwhile; as it is told that Cap Lathrop gained renewed inspiration about this project.) During the interim of the war years he extended already ambitious plans, making this even moreso "The showplace of Alaska." It was not until 1947, therefore, that the theatre was fully completed. The resulting, high fashioned decor -- particularly the plush interior -- was, and continues to be, even more astonishing than was originally planned.

The overall dimensions of the attractive Lathrop Building, are 86'9" by 130'. The theatre itself is 61'8" wide and has a depth of 130' from lobby to the rear. The capacity of the theatre is 960 people. Downstairs seats 680 patrons, while the balcony holds an additional 280. At the time, Anchorage had only a small town population (about 5,000), so 4th Avenue Theatre was most capacious and lavish for the time and place.

The front facade is highlighted by a four-story high pylon, vertically displaying in Art Deco lettering, "4th Avenue." When a marquee was added beneath the pylon in the early 1950's, the entire sidewalk entrance to the theatre was then protected by a cast concrete projection. The ground floor is composed of rich finished ashlar-faced travertine; complemented by a floor-border base of serpentine. The travertine interior work is repeated in the entryway, in forming of the ticket booth, and in portions of the lobby that are not wood panelled, or with decorative art. The original doors to the theatre are walnut and etched glass. The predominant finish of the ground floor, and the balcony lobbies are both in dark walnut, repeated in curved, fluted panels and other details such as handrails and trim. Lighting fixtures, and the base of all lounge seating, is of clear plexiglass. Finished in Classic Art Deco styling, plexiglass features are relatively small in scale and unobtrusive. The original fine-quality carpeting in the lobby, and the theatre area, is yet under the present carpet, to add plush foot comfort. An exposed portion still covers the ticket booth floor, as an example of the quality and color of the original custom carpet material.

4th Avenue Theater is considered by experts to represent "the culmination of the Art Deco movement in the U.S." Skilled practitioners of the art, here "honed down the showy nature of the 1930-50 fad style into a gem-like distillation of highest quality -- beautifully integrated into regional motif and a creative, exciting individuality" -- unsurpassed by any other known example in the Pacific Coast region.

(Continued)

# 8. Significance

Period	Areas of Significance—Check and justify below			
<input type="checkbox"/> prehistoric	<input type="checkbox"/> archeology-prehistoric	<input type="checkbox"/> community planning	<input type="checkbox"/> landscape architecture	<input type="checkbox"/> religion
<input type="checkbox"/> 1400-1499	<input type="checkbox"/> archeology-historic	<input type="checkbox"/> conservation	<input type="checkbox"/> law	<input type="checkbox"/> science
<input type="checkbox"/> 1500-1599	<input type="checkbox"/> agriculture	<input type="checkbox"/> economics	<input type="checkbox"/> literature	<input type="checkbox"/> sculpture
<input type="checkbox"/> 1600-1699	<input checked="" type="checkbox"/> architecture	<input type="checkbox"/> education	<input type="checkbox"/> military	<input type="checkbox"/> social/
<input type="checkbox"/> 1700-1799	<input checked="" type="checkbox"/> art	<input type="checkbox"/> engineering	<input type="checkbox"/> music	<input type="checkbox"/> humanitarian
<input type="checkbox"/> 1800-1899	<input type="checkbox"/> commerce	<input type="checkbox"/> exploration/settlement	<input type="checkbox"/> philosophy	<input checked="" type="checkbox"/> theater (movie)
<input checked="" type="checkbox"/> 1900-	<input checked="" type="checkbox"/> communications	<input type="checkbox"/> industry	<input type="checkbox"/> politics/government	<input type="checkbox"/> transportation
		<input type="checkbox"/> invention		<input type="checkbox"/> other (specify)

**Specific dates** 1941-47 **Builder/Architect** B. Marcus Priteca and A.A. Porreca, Architects; and C.W. Hufeisen, Builder.

**Statement of Significance (In one paragraph)**

The 4th Avenue Theatre is significant for two essential reasons: (1) its vital association with an outstanding 55-year long Alaskan business and industrial entrepreneur -- Austin "Cap" Lathrop; and (2) its exceptional, but uncommon Art Deco style of architecture, of which this is the best example in Alaska, and among the best in the nation still in existence, and use, as a motion picture theatre.

Cap Lathrop: The Man Behind this Theatre

4th Avenue Theatre (The Lathrop Building) stands in strong testimony to the builder; energetic and legendary "Cap" Lathrop. It is both a monument to him, as well as a monument made by him. Lathrop was uncommonly dynamic. His achievements in Alaskan transportation, broadcasting, politics, construction, and mining were significant steps which advanced the Territory from a frontier past toward a progressive future, and eventual Statehood.

Austin "Cap" Lathrop, son of a Michigan farmer, was born in 1865. He left school in the ninth grade, moving with his family to Wisconsin. In 1889, he went to Seattle to begin a pioneer contracting business in the wake of that city's most devastating fire. Lathrop continued to advance in the building trade. He profited also in construction of the Anacortes-Fidalgo City Railroad. His prosperity, however, was ruined by the depression of 1893. Consequently, Lathrop began looking for new opportunities; and the glitter of frontier Alaska seemed ideal to his dimensions.

The year 1895 proved to be especially important, since it marked the beginning of Cap Lathrop's 55-year Alaskan entrepreneurship. The spark that ignited Lathrop's interest in Arctic Alaska was said to be a brief conversation with Captain ("One Eye") Kelly, a salted, veteran skipper, and saloon acquaintance. Kelly told of the placer gold which had just been discovered in the Turnagain Arm section of the northern Kenai Peninsula. Lathrop became interested -- not by the lure of gold -- but in the opportunities that shipping and freighting, could bring to a gold rush scene. Through a loan from A.E. Barton of the Fry Meat Packing Co., Lathrop, Kelly, and John O'Neill jointly purchased the L.J. Perry, a small, but sturdy two-masted schooner. The initial voyage, laden with passengers and freight for the Cook Inlet gold fields, led to years of increasing success in a variety of enterprises.

In 1910, seeing the potential of the Copper River and North Western Railroad, and also the Richardson Highway, Lathrop started his Alaska Transfer Company, headquartered in Cordova, the new seaport terminus for the rich interior Kennecott copper mines. Like other Cordova citizens, Lathrop became embittered about the closing of the large Bering River coal fields. (Alaskans had been forced to import coal when more than enough of the low-price fuel was available nearby.) Their displeasure came to a head in 1911, when tons of imported coal were surreptitiously dumped in Cordova Bay. (Lathrop, reputedly, was a leader of this latter-day "Boston coal party.") The effort achieved a desired effect; within three years Alaskan coal lands were re-opened by the U.S. Government. Lathrop relocated his rapidly-growing Transfer Company to Anchorage in 1915 when the Alaska Railroad selected Ship Creek as the site

# 9. Major Bibliographical References

Berry, Barbara "A Movie Palace by Default," Alaska Journal. Volume II, 1981, Annual Edition.  
 Carberry, Michael E. Patterns Of The Past: An Inventory of Anchorage's Heritage Resources. Municipality of Anchorage, 1979. (Continued)

# 10. Geographical Data

Acreeage of nominated property 0.3 acres  
 Quadrangle name Anchorage (A-8), Alaska Quadrangle scale 1:63 360

UMT References

A	0 6	3 4 4 6 2 5	6 7 9 0 4 2 5	B			
	Zone	Easting	Northing		Zone	Easting	Northing
C				D			
E				F			
G				H			

Verbal boundary description and justification

*LOTS 3 and 4, BLOCK 41 Original Townsite*

List all states and counties for properties overlapping state or county boundaries

state	N/A	code	county	code
state	N/A	code	county	code

# 11. Form Prepared By

name/title Michael E. Carberry, AICP, Senior Planner  
Historic Landmarks Commission/  
 organization Municipality of Anchorage date 11-9-81  
 street & number Pouch 6-650 telephone (907)264-4224  
 city or town Anchorage state Alaska

# 12. State Historic Preservation Officer Certification

The evaluated significance of this property within the state is:

national  state  local

As the designated State Historic Preservation Officer for the National Historic Preservation Act of 1966 (Public Law 89-665), I hereby nominate this property for inclusion in the National Register and certify that it has been evaluated according to the criteria and procedures set forth by the National Park Service.

State Historic Preservation Officer signature *[Signature]*  
 title State Historic Preservation Officer date Sept 3, 1982

For NPS use only

I hereby certify that this property is included in the National Register

*[Signature]* date 10-5-82  
 Keeper of the National Register

Attest: *[Signature]* date Page 4 of 9  
 Chief of Registration

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The interior of 4th Avenue Theatre is the spark that brings the building to dramatic effect. The murals -- a rich collection of prime Alaskan -- provide an uncommonly handsome lining to the heart of the theatre. There are four sets of murals: a huge, floor-to-ceiling pair, which depicts the commercial and industrial growth of Alaska -- helps to frame the stage. The third mural is a resplendent three-dimensional view of North America's tallest mountain, Mt. McKinley, brightening the spacious lobby. A fourth set of murals forms a panel of Alaskan wildlife scenes, above the curved carpeted stairway to the balcony. Each mural is different in the means by which it was executed (media being essentially plaster bas-relief); although the silver and gold metallic bas-relief color effect is common to all.

The lighting and seating of 4th Avenue Theatre are noteworthy. A casual look toward the ceiling brings into focus the familiar Big Dipper and North Star constellations, shining forth in a configuration of twinkling starlight. Additional lighting is provided by large colorful glass baubles. Those large red, orange, and yellow globes, hang about midway down each aisle. The seating is carefully structured in order to provide straight aisles and unobstructed sight lines for seated patrons; accomplished by providing love seats at the ends of alternating rows.

A.B. Heinsbergen and Frank Bouman, the final interior decorators whom Cap Lathrop hired from Los Angeles, were responsible for producing the murals, as well as the complementary and notable Art Deco decor designed by Priteca and Porreca. In Heinsbergen's words, Bouman "worked on the murals extensively. . . installed them and supervised the entire decorative scheme."

Although advertised as, and usually referred to as, "4th Avenue Theatre," the structure is, formally, named The Lathrop Building. The theatre represents a substantial portion of the total structure. Lathrop initially intended that the building would also contain his first Anchorage radio and later TV station, KENI. Thus, while the first floor and core of the building were devoted to cinema, the second and third floors were designed to serve a variety of radio-television station functions, including studios, control rooms, record storage, as well as other offices, at a time when all of this was a pioneering venture for Alaska, and the emerging metropolis of Anchorage.

Over the years, occupancy of the various floors has changed. KENI-TV now operates in the spacious, sound-proof concrete basement. The first floor and auditorium continue to serve Anchorage movie-goers. Al-can, a Japanese/American fish marketing concern, has an outlet -- "Pier II" -- on the ground level facing 4th Avenue. The second floor was converted to offices and apartments in the 1950's. (At present, this floor is, temporarily, vacant.) The third floor still houses the offices of the large (now Florida based) Alaska Wometco-Lathrop Corporation. The Anchorage Wometco staff currently manages the 4th Avenue Theatre, as well as four other Anchorage theatres, two in Fairbanks, and another in Cordova -- all successors to the first "movie house" built by Lathrop in old Cordova, about 1910.

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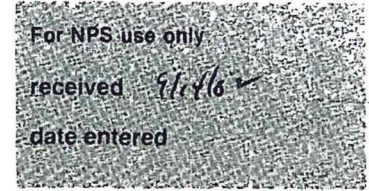
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for the Territory's most massive construction project; and the only significant (Government) railroad ever built in Alaska.

During the first half of this century, Cap Lathrop was established as a leading public figure, ". . . Alaska's Principal Resident Tycoon" (Gruening, 1973: 130). Lathrop's political philosophy tempered during his bitter experiences in politically-motivated resource development, and consequent government resource withdrawals. When the statehood movement arose, he became a leading opponent, more comfortable with Alaska's independence and "free-wheeling" frontier stance. He did not, however, stand on the sidelines of politics. Eventually his representation included Newspaper publisher (Anchorage News, and Fairbanks News Miner, 1918-1950); election to the Territorial House of Representatives, 1920-1923; Republican National Committee, 1928-1932 and 1949-1950; and the University of Alaska Board of Regents, 1932-1950 (during a time of substantial growth).

His almost-exclusive chain of Alaskan theatres was formed by Lathrop in the years between 1910 and 1929. He considered motion pictures "the most eagerly-devoured form of family entertainment in the frigid northland." "Movies," he said, "provided a social outlet especially enjoyed by all." "Cap" delighted in bringing happiness to children in the isolated rustic Alaskan towns. On holidays, he frequently opened his theatres to "kids," for free movies. Starting with the Empress at Cordova (1910, and rebuilt in 1915), Lathrop developed his "entertainment" chain. Other theatres in addition to Cordova included Anchorage's Empress (1916); and the Lacey and Empress Theatres in Fairbanks (before 1929). Along with building "movie-houses," he also became involved in the "film industry." As president of the Alaska Motion Picture Corporation, Lathrop in 1923 produced "The Last of the Cheechakos," the first (and only) major film ever produced in Alaska.

Later years saw continued expansion of Cap Lathrop's economic domain. He added the Healy River Coal Mines, and then proceeded to pioneer development of the broadcasting industry. Radio stations KFAR in Fairbanks, and KENI were the forerunners of the Midnight Sun Broadcasting Company, Alaska's oldest and largest.

Cap Lathrop remained an active industrialist well into his eighties. In 1950, the year he died, he served as a delegate to the Republican National Convention, while still managing his multiple enterprises. At Suntrana Mine, on July 26, a railroad accident would take Austin Lathrop's life. The Alaskan press reported ". . . loss of a foremost, leading citizen -- one of the first of her self-made men who stayed to invest in her future." He was portrayed as "Alaska's best-known Millionaire" in Edna Ferber's best-selling novel, Ice Palace.

Opening of 4th Avenue Theatre, (Lathrop Building)

The 4th Avenue Theatre achieved instant acclaim on a spring day in 1947 when it opened its doors with "The Jolson Story" flashing across its large screen. "The theatre is a landmark in the transition of Anchorage from a frontier community to a city of permanence. It is a landmark in the development of a city in which families live, work, play, and die. . ." stated an Anchorage Daily Times editorial after the gala opening.

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As "the gem of Alaskan theatres," the quality edifice has maintained its stature as a dominant Anchorage business building. In consideration of its interior and exterior, this building represents the foremost; indeed one, of only two significant Art Deco buildings in all of Alaska. One who goes to a "downtown" movie here today -- during idle moments before the "feature" starts -- may observe the respect that the audience holds for this building. As eyes wander from mural to mural -- to the rich walnut woodwork and the Big Dipper ceiling lights -- it becomes apparent that this is a special place for Alaskans. An occasional, "They don't build them this way anymore," echoes the sentiment felt by many. On the opening night in 1947 one observer commented: "Touring the theatre's ultra-gorgeous interior, is like walking through a kaleidoscope."

The original interior color scheme: rose, chartreuse and light blue, is still intact. The only change has been the carpeting. The interior work of Los Angeles-based A.B. Heinsbergen, Bouman, and Porreca assisted by architect "Mark" Priteca, FAIA, remains noteworthy.

Of Dutch descent, Heinsbergen started working while in his teens, creating murals, and carrying out interior theatre decoration. He became known as the leading decorator for Pantages Theatres. By his own account, Heinsbergen decorated 741 theatres. He also "did" state capitols, city halls, hotels, restaurants, and churches. What makes his murals so endearing to Anchorage's movie-goers is their Alaskan motif -- which vividly captures the spirit of land and history in distinctive gold-leaf and silver tones.

B. Marcus Priteca, F.A.I.A. (who worked closely with A.A. Porreca and Heinsbergen, in creating the theatre interior) was respected as "dean of American theatre design." He was born in Glasgow, Scotland, (ca. 1889) and received his architectural education at University of Edinburgh. Priteca emigrated in 1909, and soon established himself as a prominent Seattle architect. By 1913 he had met Alexander Pantages (who started in the Arctic gold rush) to begin a long professional relationship, resulting in memorable "Pantages Theatre Designs." (As a complement to his Jewish faith -- he designed a number of stylish synagogues.) Priteca's theatre designs include: Seattle's The Coliseum (1916; listed in the National Register), The Paramount (Seattle), The Magnolia (Seattle), The Ortheum (Vancouver, B.C.), and Hollywood Pantages (1927). The Hollywood edifice represents the country's first important use of Art Deco style in U.S. theatre design. Priteca was the first theatre designer awarded a fellowship by the American Institute of Architects. His association with A.B. Heinsbergen was extensive. (In fact, it is "difficult to decipher where Priteca's thoughts and interior design work end, and Heinsbergen's begin.") Priteca was a noted illustrator as well as a draftsman. The 4th Avenue mural concepts are attributed to him. He designed a wide variety of creative architectural motifs over many years; and although he operated primarily out of Seattle after 1929, Priteca also worked extensively in Los Angeles during his fruitful career. The 4th Avenue Theatre's "late Art Deco" characterized his most creative work during the late 1930's and 1940's; and is considered an important architectural contribution of this highly prolific man.

Cap Lathrop called the opening of the theatre "the happiest day of my life." His dedication

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brochure adds a bit more of his saga:

"This theatre was built expecially for Alaskans. . .It is the culmination of a sincere wish to bring to the people of Anchorage, and visitors from all parts of Alaska, a theatre unexcelled on the American continent. . ."

Of the thousands of people who have since been entertained at the 4th Avenue Theatre, most will agree that Lathrop succeeded well in fulfilling his devout wish. 4th Avenue Theatre is a monument to a very prominent Alaskan, and an exceptional example of the now-rare Architectural fad style known as "Art Deco." Cap Lathrop first dreamed of such a structure about 1916. He prepared to build in the 1930's, and most definatly, by 1941. Then, when World War II halted the plans, Lathrop still perservered until his dream became reality as "The Showplace of Alaska."

APPENDIX B

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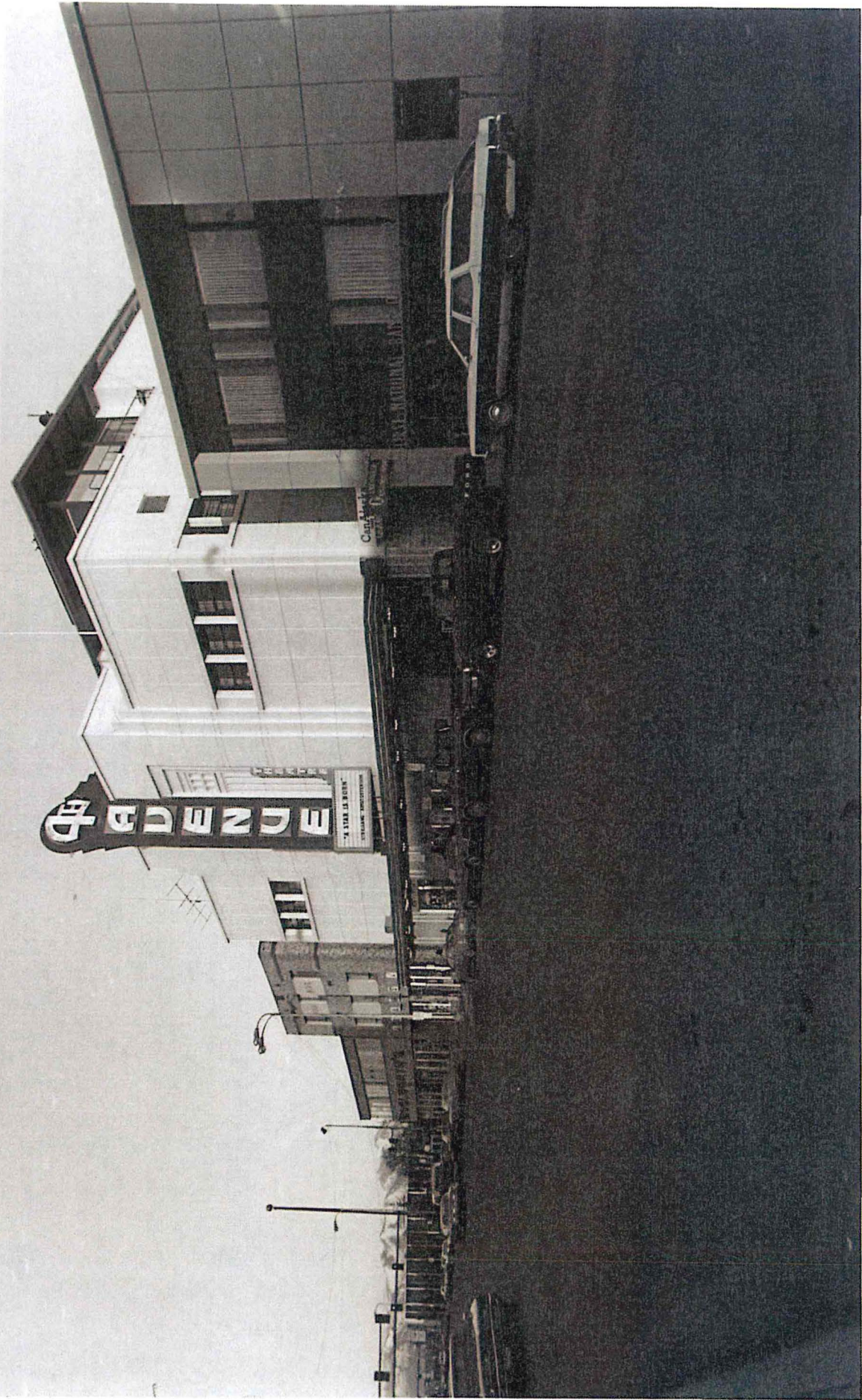
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APPENDIX C



4TH AVENUE THEATRE, ANCHORAGE, AK  
1947

APPENDIX C



FOURTH AVENUE THEATRE, ANCHORAGE, AK  
1980

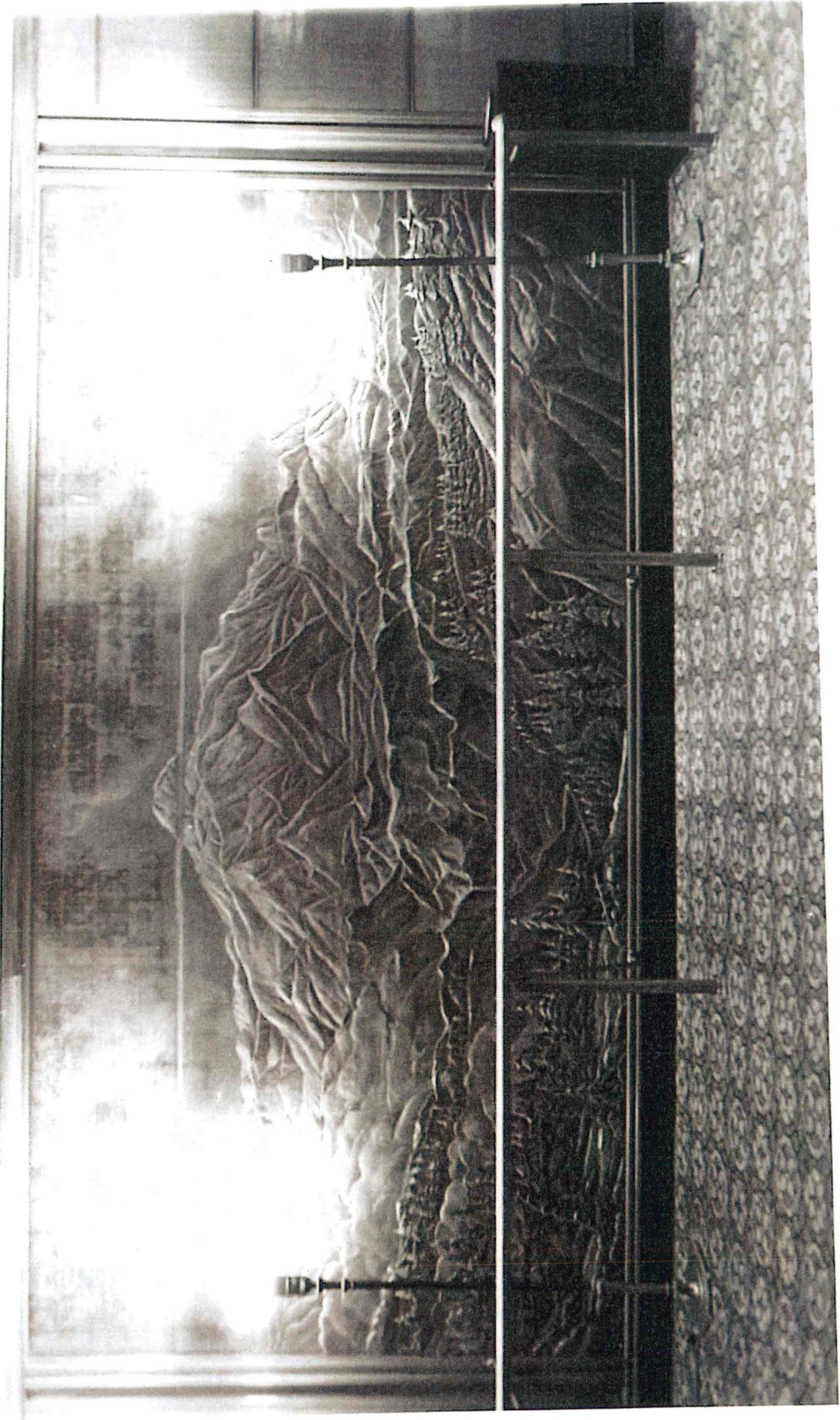
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4TH AVENUE THEATRE, ANCHORAGE, AK  
FLOOR TO CEILING MURAL, LOCATED IN THE THEATRE ITSELF



APPENDIX C



4TH AVENUE THEATRE, ANCHORAGE, AK  
MCKINLEY MURAL IN LOBBY